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NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 19th August, 1959—

Issue No.	No. and date	Issued by	Subject
122	S. O. 1809, dated 13th August, 1959.	Ministry of Commerce and Industry.	Authorising M/s Karam Chand Thapar and Bros. (P). Ltd., to take over the management of the whole of the Ajodhya Mills Ltd., Delhi and appoint them as Managing Agents of the same.
123	S.O. 1810, dated 18th August, 1959.	Ministry of Information and Broadcasting.	Approval of films specified therein.
124	S. O. 1848, dated 19th August, 1959.	Ministry of Commerce and Industry.	Further amendments in the Exports (Control) Order, 1958.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 19th August 1959

S.O. 1851.—In pursuance of sub-section (6) of Section 116A of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the decision of the High Court of Mysore at Bangalore given on the 14th July, 1959 on an appeal from the order, dated the 29th January, 1959 of the Election Tribunal, Gulbarga.

IN THE HIGH COURT OF MYSORE AT BANGALORE

Dated the 14th day of July 1959.

PRESENT:

The Hon'ble Justice Sri A. R. Somnath Iyer,

AND

The Hon'ble Justice Sri A. Narayana Pai.

MISCELLANEOUS APPEAL No. 37 OF 1959.

B. Shyamsunder—Petitioner—Appellant.

(By Sri H. F. M. Reddy).

Vs.

- | | | |
|---------------------------|---|--------------------------|
| 1. Shankar Deo Vedalankar | } | Respondents—Respondents. |
| 2. Mahadeoppa Rampura | | |
| 3. Sharangouda | | |
| 4. R. V. Bidap | | |

(Respondent 1 in person).

(Other Respondents absent).

Miscellaneous Appeal against the judgment, dated 29th January 1959 passed by the Election Tribunal, Gulbarga, in Election Petition No. 431 of 1957.

This appeal coming on for final hearing this day, the Court delivered the following:—

JUDGMENT

Somnath Iyer J.

This appeal presented under the provisions of Section 116-A of the Representation of the People Act, concerns an election to the House of the People from the Gulbarga Parliamentary Double Membership Constituency to fill a reserved seat. This election was held in March, 1957. Respondent one and the appellant were the two candidates for that reserved seat. Respondent one was declared to have been duly elected, whereupon the petitioner presented an election petition under the provisions of Section 80 of the Representation of the People Act, calling in question the validity of the election of respondent one. That election petition was heard by an Election Tribunal appointed for that purpose. The Tribunal dismissed the election petition and the appellant appeals to this Court from that decision.

Respondent one was by birth a Hindu and belonged to a caste known as the Samgar Caste. This caste was specified as a scheduled caste by the President by an order made under Article 341 of the Constitution, which was called the Constitution (Scheduled Castes) Order, 1950, as modified by another order made under the provisions of Section 41 of the States Reorganisation Act, 1956, called the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956.

In the nomination paper presented by respondent one to the Returning Officer, he described himself as belonging to the Samgar Caste and the appellant's objection to the validity of that nomination paper was overruled by the Returning Officer.

In the election petition presented by the appellant, many grounds were urged in its support. But, during the trial of the election petition, the restricted attack made on the validity of the election of respondent one was, that respondent one, when he stood as a candidate for the reserved seat in question, did not belong to a scheduled caste and was therefore ineligible to stand as such candidate. The ground urged was that, the appellant had become a member of the Arya Samaj organisation and had, therefore, ceased to be a Hindu and a member of the Samgar Caste.

The finding of the Tribunal in effect, was that, on the date on which respondent one presented his nomination paper, he was an Arya Samajist by creed, belief and profession. But, it recorded a further finding that by reason of his having been an Arya Samajist in that way, he did not cease to be a member of the Samgar caste in which he was born.

In support of the appeal presented to this Court, two contentions are urged on behalf of the appellant. The first contention is that respondent one by reason of his having become a member of the Arya Samaj in the year 1949 and by reason of his having continued to be such member until the date on which respondent one presented his nomination paper, respondent one had ceased to be a Hindu and was, therefore, a person who professed a religion different from Hinduism. It was therefore contended before us that, as provided by paragraph 3 of the Constitution (Scheduled Caste) Order, 1950, he could not be deemed to be a member of a Scheduled Caste. The second contention urged before us is that even if we come to the conclusion that respondent one cannot be regarded to profess a religion different from Hinduism merely by reason of his having become a member of the Arya Samaj, we should still hold that his profession of Arya Samajism entailed a deprivation of caste and that respondent one ceased to belong to the Samgar caste after he became a member of that organisation.

Article 330 of the Constitution provides that seat shall be reserved in the House of the People for the scheduled castes. Paragraph 2 of the Constitution (Scheduled Castes) Order, 1950, provides among other matters that subject to the provisions of that order, the castes specified in Parts I to XVI of that order shall be deemed to be scheduled castes. Paragraph 3 of that order provides that, notwithstanding anything contained in paragraph 2 referred to above, no person who professes a religion different from Hinduism shall be deemed to be a member of a Scheduled Caste.

It is undisputed that the Samgar caste is a caste which he specified in Part VIII of Schedule I to the Constitution (Scheduled Castes) Order, 1950, as modified by the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956. There can, therefore, be no doubt, and it is not disputed, that the Samgar caste is a scheduled caste within the meaning of that expression occurring in Article 330 of the Constitution.

That being the position, it is only if respondent one can be said to profess a religion different from Hinduism by reason of his having entered the Arya Samaj fold, or no longer retained the Samgar caste, in which he was born, it could be held that he was not a member of a scheduled caste on the date of the presentation of his nomination paper in connection with the election which is now disputed.

As I have mentioned above, the finding of the Tribunal was that although respondent one was a member of the Arya Samaj at the relevant time, he had neither ceased to be a Hindu nor lost his Samgar caste in which he was born.

The latter part of this finding recorded by the Tribunal is assailed on behalf of the appellant before us while the former part of it is assailed by respondent one who has attempted to support the decision of the Tribunal also on the ground that the first part of the finding referred to above is incorrect.

It would now be necessary to refer briefly to certain undisputed facts. It is common ground that in the year 1942, respondent one entered an Arya Samaj educational institution called the Gurukul University, Kangri, Haridwar. He continued the study of the Vedas and the Upanishads in that institution till the year 1949 when a degree known as Vedalankar was conferred on him. Between the years 1949 and 1950, he was a student of a college, conducted by the Arya Samaj Organisation, known as the D.A.V. College, Kanpur. In that institution, he took the degree of Master of Arts in Philosophy. In the year 1951, he went to the State of Hyderabad, to which he belonged, and worked as a Pracharak in an Arya Samaj institution known as the Arya Pratinidhi Sabha, Hyderabad, for six months. In December, 1951, during the first general election held for the Legislative Assembly of the erstwhile State of Hyderabad, he stood as a candidate for that body to a reserved seat. He claimed to belong, on that occasion, to the Samgar caste, and therefore, to a scheduled caste. He succeeded in that election and in the year 1952, he was appointed as one of the ministers of the then Hyderabad Government, and it is stated by respondent one that he was appointed as such minister on behalf of the Harijan community to which respondent one states he continued to belong at that time.

On September 26, 1953, as disclosed by Exhibit P-12, which is an extract from the proceedings of a committee known as the Antarang Sabha of the Sultan Bazar branch of the Arya Samaj, it was decided by that Antarang Sabha that a suggestion coming from some one, that respondent one should be admitted as a member of the Arya Samaj organisation should be accepted. Although there is evidence in this case given by the appellant's witnesses that, in order that a

person may become a member of the Arya Samaj, he should, in accordance with the rules prescribed in that regard, make an application for such admission, it does not appear that respondent one made any such application as required by those rules.

But, it is clear from Exhibit P-13 which is a document produced by P.W. 11, who was, when he gave evidence, a Pradhan of the Sultan Bazar Branch of the Arya Samaj, Hyderabad, that respondent one paid his membership subscription in regard to that organisation for the period of fifteen months between April 1956 and June 1957. It is not disputed by respondent one that he paid this subscription. Exhibit P-13 bears the date June 18, 1957, and respondent one admits before us that he paid the subscription referred to in that document.

On behalf of the appellant, it is also pointed out that Exhibit P-3 which is the 13th Annual Report of the Arya Pratinidhi Sabha of the State of Hyderabad discloses that during the year 1943-44, one Pandit Shankar Deo Udgir was a member of the Arya Samaj and did considerable work in many spheres of the Arya Samaj Organisation. This, according to the appellant discloses that respondent one was an Arya Samajist even in the year 1943-44. But it does not appear to me that much reliance can be placed on that document for the reason that even according to the appellant's contention, respondent one became an Arya Samajist only in the year 1949. Further, the person referred to in Exhibit P-3 is one Shankar Deo Udgir whereas the name of respondent one before us is merely Shankar Deo.

Reliance is next placed on behalf of the appellant on Exhibit P-4 which is a printed list of the distinguished Aryas in the State of Hyderabad in which, the name of respondent one is also contained. It does not appear to me that this document is of any help to the appellant since it is not stated in that document that respondent one was an Arya Samajist. All that document states is that he was one of the distinguished Aryas and the evidence given by the appellant's witnesses themselves is that an Arya is not necessarily an Arya Samajist.

Exhibit P-5 is the next document from which it is urged that we should infer that respondent one was an Arya Samajist in the year 1949. Here again, as in the case of Exhibit P-3, the reference is one to Pandit Shankar Deo who is said to have performed one 'Shuddhi' and twenty 'Sanskars' but is not very clear that the reference in that document can be regarded to be to respondent one.

Exhibit P-1 is the next document which is an article, the title of which is: "The Contribution of Arya Samaj to the struggle for Freedom." In the course of that article, it is stated that respondent one was one of those Arya Samajists who were elected in the year 1951-52 General Elections.

Exhibit P-7 is a Hindi book published in the year 1954 by one Tulsiram Kawle to which respondent one has admittedly written a foreword. I do not think there is anything in Exhibit P-7 from which we can infer that by reason of writing that foreword respondent one had become a member of the Arya Samaj in the year 1954.

But, it seems to me that Exhibit P-13 makes it very clear that during the period between April 1956 and June 1957, respondent one was undoubtedly a member of the Arya Samaj of the Sultan Bazar Branch of the Arya Pratinidhi Sabha of the State of Hyderabad. Respondent one has strenuously contended before us that all that document evidences is that he paid subscriptions to the Arya Samaj organisation out of altruistic motive since he was, at that period, a minister of the Hyderabad State. But, it is, I think, impossible to read Exhibit P-13 in that way. Exhibit P-12 which is a record of the proceedings of the Antaranga Sabha of the Sultan Bazar Arya Samaj Organisation conducted on September 26, 1953, makes it very clear that respondent one was proposed by some one for admission to the Arya Samaj organisation. That proposal was accepted by that Sabha and if, thereafter, it is found that for the period between April 1956 and June 1957, respondent one paid his membership subscription to that organisation, it becomes clear that sometime after September 26, 1953, respondent one became a member of the Arya Samaj and there is no evidence in this case that after June 1957, which is the date up to which in Exhibit P-13, respondent one paid his subscription, he ceased to be a member of the organisation either by resignation or otherwise. The proper conclusion to be drawn from the above materials, therefore, is that on January 28, 1957, on which date respondent one presented his nomination paper in regard to the election now in dispute, he was a member of the Sultan Bazar Branch of the Arya Pratinidhi Sabha of the State of Hyderabad. This conclusion is, in my opinion justified by the fact that when R.W. 2 Pandit Narenderji, who is the President of the Antaranga Sabha,

was examined as a witness by respondent one, he did not ask him to produce any other record of that organisation which established that after the decision of the Antaranga Sabha recorded in Exhibit P-12, and notwithstanding the payment of the subscription by respondent one as recorded in Exhibit P-13, respondent one did not nevertheless become a member of that organisation. In my opinion, the finding of the Tribunal that respondent one was a member of the Arya Samaj when he presented his nomination paper has to be affirmed and it is only to that extent that it should be affirmed, although, it has to be pointed out that its finding in the extended form in which it has been recorded, namely, that respondent one was by creed, belief and profession an Arya Samajist does not appear to be justified by the evidence in the case.

The next question that arises is whether by reason of respondent one having become a member of the Arya Samaj, in that way, he could be regarded to have professed a religion different from Hinduism. If he could be said to have done that, there can be no doubt that, as provided by Paragraph 3 of the Constitution (Scheduled Castes) Order, 1950, he could not be deemed to be a member of a Scheduled Caste.

The contention urged by Mr. Reddy, appearing on behalf of the appellant, although with some considerable difference, was that the Arya Samaj is a religion distinct from Hinduism. Mr. Reddy urged that the Arya Samaj is an organisation which repudiates the determination of caste by birth as it does idolatry.

It must be said that it is so, but what is of importance is that the Arya Samaj believes in the supremacy of the Vedas. It is undisputed that Pandit Dayanand Saraswati who was the founder of the Arya Samaj organisation was himself a Hindu who never abjured his ancestral religion. He was only a reformer who attempted to restore the Hindu religion to its original purity but in that attempt he never attempted to weaken or undermine the foundations of that religion.

This is also the evidence given by P.W. 2 Venkata Swamy who is the Joint Secretary of the Arya Pratinidhi Sabha of the State of Hyderabad. This is what he stated:—

'Arya Samaj is only an organisation. Swamy Dayanand did not establish any new religion but he made the people realise what they had forgotten about their religion.'

R.W. 2 Pandit Narendraji and R.W. 4 Hazarilal Rohatgi, who is the Principal of the D.A.V. College, Kanpur, also gave similar evidence.

It is therefore plain that Arya Samaj, unlike Christianity or Islam, is not a new religion entirely distinct from Hinduism and that the mere profession of Arya Samajism by a person does not make him cease to be a Hindu and cannot have the effect of excluding him from Hinduism although he was born in it. It is equally clear that such a person never becomes separated from the religious communion in which he was born. The contention urged to the contrary by Mr. Reddy must, therefore, fail.

That being the position, Paragraph 3 of the Constitution (Scheduled Castes) Order, 1950, cannot be of any help to the appellant in this case.

The next and the more serious contention urged on behalf of the appellant is that respondent one, by becoming an Arya Samajist, ceased to retain the Samgar caste in which he was born. It is urged that since the refutation of the birthwise classification of castes is one of the cardinal articles of the Arya Samaj faith, one who is a member of that organisation can no longer be considered to belong to the caste in which he was born. The argument, therefore was that the moment respondent one became a member of the Arya Samaj, he ceased to be a person belonging to the Samgar caste and if that was so, he could not have properly stood as a candidate to the reserved seat, as a Samgar.

In support of this contention, reliance was placed by Mr. Reddy on the evidence of four witnesses who were examined on behalf of the appellant, P.W. 2, P.W. 4, P.W. 7 and P.W. 11. P.W. 2 Venkata Swamy is the Joint Secretary of the Arya Pratinidhi Sabha. P.W. 4 Gopdeo Shastri is one of the Preachers in that Organisation. P.W. 7 Manik Rao Shastri is another Arya Samajist and P.W. 11 Surya Pratap is the Pradhan of the Sultan Bazar Branch of the Arya Samaj Pratinidhi Sabha. All these witnesses have given evidence that an Arya Samajist does not believe in caste and that once a person becomes an Arya Samajist, he loses the caste in which he was born.

Three witnesses were examined by respondent one in support of his contention that an Arya Samajist retains the caste in which he was born even after he became an Arya Samajist. R.W. 2 Pandit Narenderji, the President of the Antaranga Sabha, R.W. 3 Pandit Indra Vidyawachaspati, the Vice-Chancellor of the Gurukul at Kangri, and R.W. 4 Hazarilal Rohatgi, the Principal of the Dayanand Anglo-Vedic College, Kanpur, are those three witnesses. Their evidence is that a person by becoming an Arya Samajist does not lose his caste and that he retains the caste in which he was born.

P.Ws. 2 and 7 have given evidence that if an Arya Samajist says that he belongs to a particular caste even after he became an Arya Samajist, he ceases to be an Arya Samajist whereas P.W. 11 has given evidence that if one, even after becoming an Arya Samajist, declares that he belongs to any particular caste, he does not cease to be an Arya Samajist merely by reason thereof, but continues to be one until removed in accordance with the rules of the Arya Samaj, which, however, have not been produced by any of the parties in this case.

It is, I think, extremely difficult to base our decision on the question that arises for determination in this case merely on the opinions given by these witnesses examined by the parties. As pointed out by the Supreme Court in *CHATTURBHUI VITHALDAS JASANI v. MORESHWAR PARASHARAM AND OTHERS* (i), we are not in deciding this case, really concerned with the theology of the Arya Samaj, as propounded by the witnesses referred to above. What we are really concerned with is the determination of the social and political consequences of a conversion, if it can be said that a conversion takes place when a person born in a particular caste becomes an Arya Samajist. As further pointed out by their Lordships of the Supreme Court, the question must be decided in a commonsense practical way rather than on theoretical and theocratic grounds.

We are in this case, concerned with the social and political consequences of respondent one having become a member of the Arya Samaj although he was born in the Samgar caste. It seems to me that, in a case like this, the true position is that if a person is born in a particular caste, there cannot, in the absence of intentional abandonment or renunciation of that caste by that person, or expulsion or ex-communication by persons belonging to the caste in which he was born, be any deprivation or loss of caste. The three factors to be considered in order to decide whether there was such loss or deprivation of caste in so far as it involves deprivation of the political and social rights of a person who becomes a proselyte by his getting into the Arya Samaj fold are those which have been laid down by the Supreme Court in the decision to which I have referred. On page 244, of that report, this is what Bose, J., said:—

"Conversion brings many complexities in its train, for it imports a complex composite composed of many ingredients. Religious beliefs, spiritual experience and emotion and intellectual conviction mingle with more material considerations such as severance of family and social ties and the casting off or retention of old customs and observances.

* * * *

Looked at from the secular point of view, there are three factors which have to be considered: (1) the reactions of the old body; (2) the intentions of the individual himself and (3) the rules of the new order. If the old order is tolerant of the new faith and sees no reason to outcaste or ex-communicate the convert and the individual himself desires and intends to retain his old social and political ties the conversion is only nominal for all practical purposes and when we have to consider the legal and political rights of the old body the views of the new faith hardly matter.

The new body is free to ostracise and outcaste the convert from its fold if he does not adhere to its tenets, but it can hardly claim the right to interfere in matters which concern the political rights of the old body when neither the old body nor the convert is seeking either legal or political favours from the new as opposed to purely spiritual advantage.

On the other hand, if the convert has shown by his conduct and dealings that his break from the old order is so complete and final that he no longer regards himself as a member of the old body and there is no reconversion and readmittance to the old fold, it would be wrong to hold that he can nevertheless claim temporal privileges and political advantages which are special to the old order."

Now, in this case, there is no evidence that respondent one was either ostracized or banished from his caste by those belonging to the old order who are still in it. It is not the case of the appellant that respondent one lost his caste in that way.

An attempt was made on the basis of the evidence given by P.Ws. 5 and 6 to show that when respondent one was elected to the Hyderabad Legislative Assembly in the year 1951, the Harijan Community was generally dissatisfied with some of his activities after such election. P.W. 5 Shri Ramaswamy is a person who was elected to the House of the People in the year 1950 and he gave evidence that the Harijans of the Hyderabad State did not acknowledge respondent one as one of themselves. He added that the reason for that was that respondent one had been supported by the Arya Samajists and was made to stand on behalf of the Arya Samajists. In his cross-examination, he admitted that in the General Elections which were held in the year 1951-52 to the Legislative Assembly of the Hyderabad State, respondent one was elected for a seat which had been reserved for the scheduled castes. He also admitted that he did not know the institutions of the Harijans which repudiated respondent one as being a person belonging to that community. P. W. 6 Ganpatrao who is a Chambhar and therefore a person belonging to a scheduled caste, gave evidence that as the attitude of respondent one was not satisfactory towards the untouchables, they were not satisfied with his work. He also gave evidence that the reason for such feeling was that respondent one was trying to win over the untouchables to Arya Samaj. In the course of his cross-examination he stated that the Harijans were dissatisfied with the personal activities of respondent one. But, curiously enough, in the course of his cross-examination, he pretended ignorance of the fact whether respondent one was the President of the All India Depressed Classes League of Hyderabad and whether in the year 1953, he convened a conference of the All India Depressed Classes League at Hyderabad.

It is therefore seen from the evidence of these two witnesses that their evidence, besides being vague and inconclusive, cannot be regarded as acceptable. Secondly, neither P.W. 5 nor P.W. 6 is a person belonging to the caste in which respondent one was born. P.W. 5 is a Mala whereas P.W. 6 is a Chambhar. In the absence of any evidence, which neither of these two witnesses gave, as to the kind of persons who had cause for dissatisfaction against respondent one by reason of some activities on his part which they did not like, it is impossible to hold that their evidence throws any light on the reactions of the old order to which respondent one belonged prior to his conversion, if it can be called a conversion, to the Arya Samaj faith.

There is thus no evidence in this case that persons belonging to the Samgar caste in which respondent one was born at any time disowned respondent one or treated him as a person who was not one of themselves.

It was next contended that there was some evidence in this case which demonstrated an intentional renunciation or abandonment on the part of respondent one, of the caste in which he was born. According to Mr. Reddy who appears for the appellant, such renunciation or abandonment has also to be deduced from the mere fact that respondent one became an Arya Samajist and was therefore bound to repudiate the caste system based on birth.

It is clear that no such inference can be drawn merely from the fact that respondent one became an Arya Samajist. It may be that having become an Arya Samajist in that way, respondent one intellectually accepted some of the tenets of the Arya Samaj organisation. But the question to be decided in this case is whether there was a break by respondent one from the old order to which he belonged and whether that break is so complete and final that he no longer regarded himself as a member of the Samgar caste.

Respondent one has given evidence in this case that notwithstanding his having become a member of the Arya Samaj, he believes in idolatry, Geetas and Puranas, in none of which an Arya Samajist can properly have faith.

The appellant gave evidence that after respondent one became an Arya Samajist, he did not mix or go about with the scheduled caste people but was always with the Arya Samajists.

There is no evidence in this case that after respondent one became an Arya Samajist, he abjured the caste system peculiar to the Hindu religion to which he belonged by reason of his birth, nor is there any evidence in the case that he, at any time, declared himself to be a person no longer belonging to the Samgar

caste. It is, I think, impossible to attach much weight to the evidence given by the appellant that respondent one was not mixing or having any social intercourse with the persons belonging to the scheduled castes. His evidence is obviously interested evidence.

On the contrary, there is a considerable volume of evidence which demonstrates the intention of respondent one to remain in the caste in which he was born. The mere fact that respondent one joined the Gurukul at Kangri does not indicate that by so joining that institution, respondent one intended to abandon the Samgar caste. P.W. 4 Gop Deo Shastri, a Pracharak of the Arya Samaj in the State of Hyderabad, has given evidence that even Muslims, Harijans and Parsis were admitted to that Gurukul. R.W. 3 Pandit Indra Vidyawachaspati has given evidence that when respondent 1 joined that institution, he claimed to belong to a scheduled caste. Exhibit D-1 which, according to R.W. 3, was brought by respondent one and which is a letter addressed to R.W. 3 by one Tyagi on June 3, 1943, refers to respondent one as a Harijan.

Mr. Reddy has contended before us that Exhibit D-1 has not been properly proved and that any statement contained in that document cannot be regarded to have been made by Tyagi, which it purports to be.

But, whether Tyagi really made that statement or not, what is material for the purpose of this case is that R.W. 3's evidence is to the effect that Exhibit D-1 was brought by respondent one to him when he sought admission to that institution and if in that letter there is reference to respondent one being a Harijan whatever else is or is not established by Exhibit D-1, there can be no doubt that when respondent one sought admission into that institution, he declared that he belonged to the Harijan Community. It is obvious that when he so described himself he was representing that he belonged to the Samgar caste in which he was born.

There is no evidence in this case that during the period of nearly seven years in which he was a student of that institution, respondent one did anything from which it could be inferred that there was a break on his part from the Samgar caste or such break was so complete that he could no longer be regarded as a person belonging thereto.

There is something more important than that. After he left that institution, between the years 1949 and 1951 respondent one was a student of the Dayanand Anglo-Vedic College. It is also an institution run by the Arya Samaj. R.W. 4 Hazarilal is the Principal of that College and he has given evidence with reference to the registers which he had maintained in that College that respondent one, was, during the period when he was a student of that college, getting a scholarship which was granted to him by the State of Uttar Pradesh. The effect of his evidence is that scholarship is granted to a person belonging to the Harijan Community and that on the basis of a letter written by the Harijan Sahayak Officer of the State of Uttar Pradesh, on September 20, 1949, respondent one was granted that scholarship for the period between July, 1949 and April 1951. One other fact which emerges from the evidence of R.W. 4 is that when respondent one was a student of that college, he went on a hunger strike for the reason that he and the other Harijan Students were not allowed to mess in the hostel run by a Brahmin cook.

By far the most important piece of evidence which has a material bearing on this case is the fact that in the general elections which were held to the Hyderabad Legislative Assembly in the year 1951, respondent one was a candidate to a reserved seat. He stood as a candidate as a person belonging to the Samgar caste. There is no evidence that any one objected to his competence to stand as a candidate to that reserved seat but there is evidence that he was successful in that election.

Respondent one has given evidence that after he succeeded in that election, he was appointed as one of the ministers of that State and that in that cabinet, he represented the Schedule castes of that State. It has, however, to be noticed that there is no evidence in regard to that matter except that given by respondent one. It emerges from the evidence that when he was such minister and between the years 1952 and 1956, respondent one was a President of the Harijan M. L. A.s' Association of the Hyderabad Legislative Assembly and that he was also the President of the Hyderabad Depressed Classes League, which is a branch of the All India Depressed Classes League. It is also in evidence that he was the Chairman of the Reception Committee of the All India Depressed Classes League Conference held in the year 1953.

The proper inference to be drawn from the above facts is that far from respondent one having discontinued to remain in the Samgar caste in which he was born, he still regarded himself as a person belonging to it. There is no evidence produced on behalf of the appellant that either there was a break on his part from that caste or that such break was so complete that the only possible inference is that respondent one no longer regarded himself as belonging to it.

That being the position, the second test to be applied in order to decide the social and political consequences of respondent one professing the Arya Samaj faith, if applied, does not established that there was any intentional abandonment by respondent one of the caste in which he was born.

What is next to be considered are the rules of the Arya Samaj organisation in so far as they are relevant for our present purposes. P. W. 11 the Pradhan of the Sultan Bazar Branch of the Arya Samaj has given evidence that if a person still believe in his belonging to a particular caste even after he became a member of the Arya Samaj he is liable to be removed in accordance with the rules made in that regard. Those rules, however, were not produced. However that may be, there is considerable evidence in the case that important office-bearers of the Arya Samaj organisation were aware of the fact that respondent one stood as a candidate to a reserved seat of the Hyderabad Legislative Assembly as belonging to the Samgar caste. There is evidence, and that is also the argument addressed by Mr. Reddy to us, that respondent one was actively supported during those elections by the members of the Arya Samaj themselves. The position therefore was that, far from the Arya Samaj taking any steps to expel respondent one from the membership of the Arya Samaj organisation, they not only gave their active support and assistance to respondent one in his election campaign but also felt quite happy that he was successful in his election. Exhibit P-1 which is a document on which reliance has been placed on behalf of the appellant shows that in that article, respondent one was referred to by an Arya Samajist who wrote that article, with considerable satisfaction, as one of those Arya Samajists who were elected in that election.

The Arya Samaj, therefore, took no steps to either outcaste or ostracize respondent one from its fold on the ground that he did not adhere to its tenets, one of which was that in Arya Samajist does not believe in the birthwise caste system. It is equally clear that the Arya Samaj could have hardly any right to interfere in a matter like the election of respondent one to the Legislative Assembly of the State of Hyderabad or to the House of the People which concerned entirely the political rights of the Samgar community in which he was born, particularly because, respondent one never sought or aspired for any favour from the Arya Samaj of which he became a member.

In my opinion, the Election Tribunal was, therefore, right in coming to the conclusion that by reason of respondent one having become a member of the Arya Samaj, he did not cease to belong to the Samgar Caste in which he was born, and I come to that conclusion notwithstanding the fact that the evidence discloses that, in the year 1950, respondent one was married, according to Arya Samaj rites, to a girl belonging to a caste which is referred to as the Sonar Caste, in the course of evidence. I am not convinced by the argument of Mr. Reddy that the fact that that marriage took place in that way established that respondent one did not himself at that time consider that he had retained his Samgar Caste. There is no evidence to show that respondent one and his wife could not have married in the ordinary way if they had not married according to the Arya Samaj rites.

Likewise, there is no substance in the contention urged by Mr. Reddy that in the Census Report which was completed in the year 1951, respondent one was referred to as an Arya. As I have already mentioned, the evidence given by the appellant's witnesses themselves, and particularly by P. Ws. 2 and 4, was that an Arya is not necessarily an Arya Samajist.

In my opinion, the finding of the Election Tribunal that respondent one was a member of the Arya Samaj on the date of the presentation of his nomination paper in connection with the disputed election has to be affirmed, although its further finding that he was an Arya Samajist by creed, belief and profession does not appear to be based upon any acceptable or trustworthy material on record. Its finding that respondent one continued to be a member of a Scheduled Caste when he stood for election has also to be affirmed.

The result is that this appeal fails and must be dismissed with costs. The sum of Rs. 500 deposited by the appellant as required by the provisions of the Representation of the People Act, when he presented the appeal to this Court, will be paid to Respondent one by way of costs.

Sd - A R SOMNATH IYER, Judge.

Narayana Pai, J:—

I agree.

Sd - A. NARAYANA PAI, Judge.

MEMORANDUM OF COSTS INCURRED IN THIS APPEAL

Values of S.A.	By the Appellant.	By the Res- pondent 1. (Appeared in person)
	Rs. n.P.	Rs. n.P.
Court fee or Memo of Appeal	2—00	..
Do. on Power of Attorney	2—00	..
Do. on processes	1—87	..
Do. on copies of orders	1—00	..
Advocate's fee	10—00	.
Costs of Postage and Telegram etc.,	2—62	..
Fees for copying	36—02	..
TOTAL	55'51	..

It is ordered that the sum of Rs. 500 (Rupees five hundred) deposited by the Appellant (Original petitioner) foresaid as required by the provisions of the Representation of the People Act, when he presented this appeal to this Court shall be paid to Respondent-1 (Shanker Deo Vedalankar) aforesaid by way of costs of this Appeal.

Sd./- B. MOPURI REDDY,

III Deputy Registrar.

[No. 82/431/57.]

C. B. LAL, Under Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 10th August 1959

S.O. 1852.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby directs that the following further amendments shall be made to the Indian Frontier Administrative Service Rules, namely:

(1) In the said rules for sub-clause 1(b) (iii) of Rule 10(I) the following shall be substituted:—

“(iii) Other persons whose applications are forwarded by the Central Government, State Governments, North-East Frontier Agency Administration, Naga-Hills Tuensang Area Administration and the Universities.”

The amendment hereby made shall be deemed to have taken effect on and from the 23rd February 1959.

(2) In the said rules the following shall be substituted for Rule 10(I)2:—

"2. Vacancies to be filled by promotion.

To the extent suitable candidates are available, as nearly as possible twenty per cent of the total authorised strength of the cadre (excluding deputation and leave reserves) shall be filled by promotion of officers belonging to the local services of the North East Frontier Agency, Naga-Hills Tuensang Area Administration and the States of Manipur and Tripura on the advice of the Special Selection Board."

The amendment hereby made shall be deemed to have taken effect on and from the 23rd February 1959.

(3) In the said Rules, under Rule 10(II) (I), the following shall be inserted below "4. A representative of the Ministry of Defence", as proviso:—

"Provided that short-term vacancies in Grade I which are likely to last for a period not exceeding four months at a time shall be filled by the Governor of Assam by appointment of Grade II Officers of the Service from the list of officers approved by the Departmental Promotion Committee."

The amendment hereby made shall be deemed to have taken effect on and from the date of issue of this notification.

(4) In the said rules, the following shall be substituted for rule 10(II) (2) under 'Maintenance':—

"(2) All vacancies arising in Grade II by such promotions or otherwise shall be filled on the advice of the Special Selection Board partly by direct recruitment from the sources specified in sub-clause 1(b) of clause I of this rule and partly by promotion of officers belonging to the local services of the North East Frontier Agency, Naga-Hills—Tuensang Area administration and the States of Manipur and Tripura:

Provided that subject to suitable candidates being available, as nearly as possible one-half of the maintenance vacancies occurring in Grade II during the first five years of the commencement of these rules shall be filled by promotion:

Provided further that subject to suitable tribal candidates being available as nearly as possible one-half of the vacancies in Grade II filled by direct recruitment during the first ten years of the commencement of these rules and during each period of five years thereafter shall be filled by the appointment of tribal candidates:

Provided further that short-term vacancies in Grade II which are likely to last for a period not exceeding four months at a time, shall be temporarily filled by the Governor of Assam by the appointment of persons who are not members of the Service."

The amendments hereby made shall be deemed to have taken effect on and from the 23rd February 1959.

[No. 459/NEFA/59.]

S.O. 1853.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby directs that the following further amendments shall be made to the Indian Frontier Administrative Service Rules, namely:—

(1) In Schedule I of the said Rules,

(a) Grade I,

(i) for the figure "4" against Sl. No. "(x)—Deputation Reserve", the figure "9" shall be deemed to have been substituted with effect from 23-2-1959;

(ii) the following shall be deemed to have been added as Sl. No. xii with effect from 21-7-1959;

"(xii) Addl. District Magistrate, Manipur

.. 1"

- (iii) for the figure "24" against the entry "Total", the figures "20" and "30" shall be deemed to have been substituted with effect from 23-2-1959 and 21-7-1959 respectively.

(b) *Grade II,*

- (i) for the figure "2" against Sl. No. "(iv)—Deputation Reserve", the figure "3" shall be deemed to have been substituted with effect from 23-2-1959;
- (ii) for the figure "3" against Sl. No. (vi) Asstt. Political Officers, Manipur, the figure "1" shall be deemed to have been substituted with effect from 21-7-1959;
- (iii) for the figure "23" against the entry "Total", the figures "24" and "22" shall be deemed to have been substituted with effect from 23-2-1959 and 21-7-1959 respectively.

(2) *In Schedule II of the said Rules,*

(a) *Grade I,*

- (i) the following shall be deemed to have been inserted after Sl. No. (4) with effect from 23-2-1959:
- "(5) Commissioner, Naga Hills Tuensang Area .. 1"
- (ii) The posts at existing Sl. Nos. "5—8" shall be deemed to have been renumbered as "6, 7, 8, 9".
- (iii) the following shall be deemed to have been added as Sl. Nos. (10) and (11) with effect from 23-2-1959:
- "10. Dy. Commissioner or Addl. Dy. Commissioner, Naga Hills Tuensang Area .. 1"
- "11. Secretary, Naga Hills Tuensang Area .. 1"
- (iv) for the existing figure "8" against the entry "Total", the figure "11" shall be deemed to have been substituted with effect from 23-2-1959.

(b) *Grade II,*

- (i) the following shall be deemed to have been added as Sl. No. (6) with effect from 23-2-1959:
- "6. Assistant Commissioner, Naga Hills Tuensang Area .. 1"
- (ii) the figure "6" against the entry "Total" shall be deemed to have been substituted by the figure "7" with effect from 23-2-1959.

[No. 458/NEFA/59.]

New Delhi, the 18th August 1959

S.O. 1854.—In pursuance of sub-rule (2) of rule 11 and clause (b) of sub-rule (2) of rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following amendment in the Schedule to the notification of the Government of India in the Ministry of External Affairs No. S.R.O. 21 dated the 23rd December, 1957, namely:—

In Part I of the said Schedule, after the existing entries, the following entries shall be inserted namely:—

I	2	3	4
North-East Frontier Agency All posts	Governor of ASSAM	Governor of ASSAM	All.

[No. 478-NEFA/59.]

G. S. PURI, Dy. Secy.

MINISTRY OF FINANCE

(Department of Expenditure)

New Delhi, the 21st August 1959

S.O. 1855.—In pursuance of sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following amendment in the Schedule to the notification of the Government of India in the Ministry of Finance (Department of Expenditure) No. S.R.O. 613, dated the 28th February 1957, namely:—

In the said Schedule—

In Part I, after the existing entries, the following entries shall be inserted, namely:—

1	2	3	4
“Junior Analyst Research Officer	Secretary Secretary	Secretary Secretary	All. All.”

[No. 1(15)-E.I(A)/59.]

N. SUBRAMANIAN, Under Secy.

(Department of Economic Affairs)

New Delhi, the 21st August 1959

S. O. 1856—Statement of the Affairs of the Reserve Bank of India, as on the 14th August 1959.

BANKING DEPARTMENT

Liabilities	Rs.	Assets	Rs.
Capital paid up	5,00,00,000	Notes	21,01,65,000
Reserve Fund	80,00,00,000	Rupee Coin	2,67,000
National Agricultural Credit (Long-term Operations) Fund	30,00,00,000	Subsidiary Coin	5,73,000
National Agricultural Credit (Stabilisation) Fund	4,00,00,000	Bills Purchased and Discounted :—	
Deposits :—		(a) Internal
(a) Government		(b) External
(1) Central Government	54,54,91,000	(c) Government Treasury Bills	4,29,40,000
(2) Other Governments	41,74,85,000	Balances held abroad*	11,65,51,000
(b) Banks	95,08,93,000	**Loans and Advances to Governments	22,04,90,000
(c) Others	160,77,50,000	Other Loans and Advances†	69,19,62,000
Bills Payable	19,96,71,000	Investments	363,88,90,000
Other Liabilities	11,09,04,000	Other Assets	10,03,50,000
TOTAL	502,21,94,000	TOTAL	502,21,94,000

*Includes Cash & Short term Securities.

**Includes Temporary Overdrafts to State Governments.

†The item 'Other Loans and Advances' includes Rs. 40.00,000 advanced to scheduled banks against usance bills under Section 17 (4) (c) of the Reserve Bank of India Act.

Dated the 19th day of August, 1959.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 14th day of August 1959.

ISSUE DEPARTMENT

Liabilities	Rs.	Rs.	Assets	Rs.	Rs.
Notes held in the Banking Department	21,01,65,000		A. Gold Coin and Bullion :—		
Notes in circulation	1680,11,83,000		(a) Held in India	117,76,03,000	
Total Notes issued		1701,13,48,000	(b) Held outside India	
			Foreign Securities	163,20,89,000	
			TOTAL OF A. . . .		280,76,92,000
			B. Rupee Coin		134,20,01,000
			Government of India Rupee Securities		1,286,16,55,000
			Internal Bills of Exchange and other commercial paper
TOTAL—LIABILITIES		1701,13,48,000	TOTAL—ASSETS		1701,13,48,000

Dated the 19th day of August, 1959.

H. V. R. JENGAR,
Governor.

[No. F. 3(2)-BC/59.]

A. BAKSI, Jt. Secy.

(Department of Economic Affairs)**ORDER***New Delhi, the 24th August 1959*

S.O. 1857.—In exercise of the powers conferred by sub-section (1) of section 6 of the Capital Issues (Control) Act, 1947 (29 of 1947), the Central Government hereby makes the following amendment in the Capital Issues (Exemption) Order, 1949, published with the order of the Government of India in the Ministry of Finance No. F.14(1)-CCI/49, dated the 20th January, 1949, namely:—

In sub-clause (a) of clause 3 of the said Order, for the words "five lakhs of rupees" the words "ten lakhs of rupees" shall be substituted.

[No. F.14(2)-CCI/59.]

A. BAKSI,

Controller of Capital Issues.

CENTRAL BOARD OF REVENUE**LAND CUSTOMS***New Delhi, the 29th August 1959*

S.O. 1858.—In exercise of the powers conferred by section 4 of the Land Customs Act, 1924 (19 of 1924), the Central Board of Revenue hereby makes the following further amendment in its notification No. 22-Customs, dated the 2nd February 1952, namely:—

In the Schedule annexed to the said notification, under the heading 'C. Land Customs areas under the jurisdiction of the Collector of Land Customs, Shillong', and the sub-heading 'SHILLONG CIRCLE', for the existing entry in column 2 against 'Borsora', the following entries shall be substituted, namely:—

- "(i) Borsora (India)—Tahirpur via Borsora (Pakistan) dumping place.
- (ii) Trolly track from Cherragaon quarry (India) to Cherragaon (Pakistan) dumping ground in Pakistan.
- (iii) Trolly track from Chalitacherra quarry (India) to Samsar Bil in Pakistan.
- (iv) Trolly track from Gauripur (India) Quarry to Samsar Bil in Pakistan.

[No. 4.]

M. C. DAS, Secy.

OFFICE OF THE ASSISTANT COLLECTOR OF CENTRAL EXCISE & LAND CUSTOMS, GOA FRONTIER DIVISION, BELGAUM.**SHOW CAUSE NOTICE***Belgaum, the 27th May 1959*

To

Shri Anant Shanu Bhandodkar of Goa, Lotāli Goa.

SUBJECT:—*Seizure of Gold bullion sovereigns and other ornaments, Indian currency etc. on 15th February, 1957.*

S.O. 1859.—Whereas there is reason to believe that the goods and currency mentioned in the subjoined schedule were about to be exported to Goa from India by a route other than the one prescribed under Section 4(b) of the Land Customs Act, 1924 without a permit as required under Section 5(1) of the Land Customs Act, 1924.

And whereas there is reason to believe that the goods mentioned in the Schedule were about to be exported to Goa from the Indian Union in contravention of:

- (1) The Government of India Ministry of Commerce and Industry, Export Control Order No. 1/54 of 10th May 1954 deemed to have contravened the Export Control Order No. 1/58 of 1st May 1958 as subsequently amended issued under Sections 3(a) and 4A of the Imports and Exports (Control) Act, 1947, and further deemed to have been issued under Section 19 of the Sea Customs Act, 1878.

(2) Government of India, Ministry of Finance, Notification No. 12(11)-F.I./48 of 25th August 1948 and No. 12(11)F.I./51 of 27th February 1951 as amended by Notification No. 2(26)-E.F.VII/53 of 5th February 1955.

(3) Reserve Bank of India, Notification No. F.E.R.A. 105/51 R.B. dated 27th February 1951, as amended by Notification No. F.E.R.S. 128/54 dated 11th September 1954, 140/55 dated 10th November 1955, 147/57 R.B. dated 19th March 1957, F.E.R.A. 157/57 R.B. dated 5th August 1957 and F.E.R.A. 162/58 R.B. dated 29th April 1958 and Notification No. F.E.R.A. 167/58-R.B. of 17th October 1958 issued under Section 8(2) of the Foreign Exchange Regulation Act, 1947 and further deemed to have been issued under Section 19 of the Sea Customs Act, 1878.

And whereas it appears that the acts of Shri Anant S. Bandoḍkar as a person concerned in the above offence attract the operation of Section 7(1) (c) of the Land Customs Act, 1924 and Section 167(8) of the Sea Customs Act, 1878 read with Section 23-A of the F.E.R. Act, 1947 and Section 3(2) of Import and Export (Control) Act, 1947.

Now, therefore, Shri Anant S. Bandoḍkar is hereby called upon to show cause to the A.C.C. Ex. G.F. Belgaum why a penalty should not be imposed on him under the above Sections and why the goods and the currency mentioned in the Schedule should not be confiscated under Sections 5(3) of the Land Customs Act, 1924, and Section 167 (8) of the Sea Customs Act, 1878, read with Section 23-A of the F.E.R. Act, 1947 and Section 3(2) of Imports and Exports (Control) Act, 1947, as made applicable to the Land Customs Act, 1924.

The basis for the liability for the goods and the currency to confiscation and his liability to penalty are set out in the annexure to the Show Cause Notice.

Shri Anant S. Bandoḍkar is hereby directed to produce at the time of the showing cause all the evidence or documents upon which he intends to rely in support of his defence. He is further directed to inform whether he desires to be heard in person by the Assistant Collector of Central Excise, G.F. Belgaum in the case.

Shri Anant S. Bandoḍkar should submit his reply to this Show Cause Notice together with all documents and evidence, if any, within 30 days of publication of this notice failing which the case will be decided *ex-parte* on merit.

SCHEDULE

No.	Description	Quantity
		T.M.G.
1.	Gold bullion	3-10-6 1-5-3 0-5-5
2.	Two sovereign coins.	
3.	One guinea Gold ring	0-5-0
4.	Indian Currency.	Rs. 150/- (one hundred & Fifty only.)

[No. VIII (b) 10-331/58/84.]

E. R. SRI KANTIA,

Assistant Collector.

CENTRAL EXCISE COLLECTORATE, HYDERABAD DN.

Hyderabad Dn., the 30th July, 1959

S.O. 1860.—In exercise of the powers conferred on me under Rule 5 of the Central Excise Rules, 1944, I hereby empower the Central Excise Officers specified in column 1 below to

exercise the powers of the Collector under the rule enumerated in column 2 subject to the restrictions in column 3.

Rank of Officer	Rule in respect of which power is delegated	Restrictions if any
Assistant Collector of Central Excise.	12-A	They shall grant rebate in cases where exports relate to ports other than the Major ports.

Addendum No. 4 to this Office Notification No. 5/57 dated 26-2-1957

G. KORUTHU,
Collector.

MINISTRY OF COMMERCE AND INDUSTRY

ORDER

New Delhi, the 21st August 1959

S.O. 1861/IDRA/5/Am.(2).—In exercise of the powers conferred by section 7 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby appoints Mr. G. N. Noel-Tod as a member of the Central Advisory Council of Industries established by the Order of the Government of India in the Ministry of Commerce and Industry No. S. O. 216, dated the 20th January, 1959, and directs that the following amendment shall be made in the said Order, namely:—

In the said Order, under the heading "To represent the interests of owners of industrial undertakings in scheduled industries" after entry No. 13 relating to Dr. R. R. Hattiangadi, the following entry shall be inserted, namely:—

"13A. Mr. G. N. Noel-Tod, O.B.E., C/o Messrs Parry and Co., Ltd., Dare House, Madras."

[No. 1 (17)IA(II) (G)/59.]

K. C. MADAPPA, Dy. Secy.

(Indian Standards Institution)

New Delhi, the 17th August, 1959

S.O. 1862.—In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed, have been established during the period 16th July to 15th August 1959.

THE SCHEDULE

Sl. No.	No. and title of the Indian Standard established	No. and title of the Indian Standard or Standards, if any, superseded by the New Indian Standard	Brief Particulars
1	2	3	4
I	IS:636-1959 Specification for Rubber-Lined, Woven-Jacketed Hose for Use in General Fire Fighting Service.	..	This specification prescribes the requirements and the methods of test for 50 mm (or 2 in.), 65 mm (or 2½ in.), and 70 mm (or 2¾ in.) internal diameter rubber-lined; woven-jacketed hose for use in general fire fighting service (Price Rs. 1.50)

1	2	3	4
2	IS:1223-1958 Specification for Apparatus for the Determination of Fat in Whole Milk, Evaporated (Unsweetened) Milk, Separated Milk, Skim Milk, Buttermilk and Cream by the Gerber Method.	..	This standard specifies the apparatus required for the determination of percentage of fat in whole milk, evaporated (unsweetened) milk, separated milk, skim milk, buttermilk and cream by the Gerber Method (Price Rs. 2.00).
3	IS:1295-1959 Specification for Needle Bars for Sewing Machines.		This standard covers the requirements for needle bars for sewing machines of the so-called household pattern (Price Re. 1.00).
4	IS:1324-1958 Glossary of Textile Terms Relating to Fabrics made from Man-Made Fibres or Filaments.	..	This standard prescribes definitions of textile terms relating to various types of fabrics made from man-made fibres or filaments. (Price Rs. 1.50).
5	IS:1325-1958 Glossary of Textile Terms Relating to Man-Made Fibres or Filaments.	..	This standard prescribes definitions of terms commonly used in the man-made fibre industry. (Price Rs. 2.00).
6	IS:1329-1958 Specification for Aircraft Timber Intended for Further Conversion.	..	This standard covers coniferous timber used for aircraft purposes and specifies the requirements in regard to the selection of material, permissible defects, conversion and seasoning of such timber (Price Rs. 1.50).

Copies of these Indian Standards are available for sale with the Indian Standards Institution "Manak Bhavan", 9, Mathura Road, New Delhi—1 and also at its Branch Offices at (i) General Assurance Building, 230, Dr. Dadabhoi Naoroji Road, Fort, Bombay—1, (ii) P-11 Mission Row Extension, Calcutta—1, and (iii) 2/21, First Line Beach, Madras—1.

[No. MDC/11(4).]

New Delhi, the 18th August 1959

daS. O.1863—In pursuance of sub-regulation (1) of regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that one licence, particulars of which are given in the Schedule hereto annexed, has been renewed.

THE SCHEDULE

SL No.	Licence No. and Date	Period of Validity		Name & address of the Licen- see	Article covered by the Licence	Relevant Indian Standard	Stan-
		From	To				
1	CM/L-95 4-8-1958	15-8-1959	14-8-1960	The National Electrical Industries Ltd., Industrial Estate, Lalbaug, Bombay-12.	Three phase Induction Motors for Industrial Use, from 1 hp to 10 hp.	IS : 3 25-1956 Specification for Three phase Induction Motors for Industrial Use (<i>Amended</i>).	

[No. MDC/12(203)-L.]

S. O. 1864—In exercise of the powers conferred by sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies the issue of errata slips, particulars of which are given in column (4) of the Schedule hereto annexed, in respect of the Indian Standards specified in column (2) of the said Schedule.

THE SCHEDULE

Sl. No.	No. and title of Indian Standard	No. and date of Gazette Notification in which establishment of Indian Standard was notified	Particulars of Errata Slip Issued
(1)	(2)	(3)	(4)
1	IS : 1068-1958 Specification for Copper, Nickel and Chromium Electroplated Coatings.	S. O. 350 dated 14th February 1959	In Table I on page 3, the existing values against grade B, have been corrected.
2	IS : 1117-1958 Specification for One-Mark Pippettes	S. O. 856 dated 25th April 1959	In line 3 of clause B-1.4.1 on page 7 'R=N/42' has been corrected to read 'R=N/42'

Copies of these errata slips are available free of cost, with the Indian Standards Institution 'Manak Bhavan', 9 Mathura Road, New Delhi-1 and also at its Branch Offices at (i) General Assurance Building, 230, Dr. Dadabhai Naoroji Road, Fort, Bombay-1, (ii) P-11, Mission Row Extension, Calcutta-1, and (iii) 2/21, First Line Beach, Madras-1.

[No. MDC/11(10)]

S. O. 1865.—In pursuance of regulation 4 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that amendments to the Indian Standards given in the Schedule hereto annexed have been issued under the powers conferred by sub regulation (1) of regulation 3 of the said regulations.

THE SCHEDULE

Sl. No.	No. and title of the Indian Standard amended	No. and date of Gazette Notification in which the establishment of the Indian Standard was notified	No. & date of Amendment	Brief Particulars of amendment	Date of effect of the Amendment
(1)	(2)	(3)	(4)	(5)	(6)
1	IS : 174-1951 Specification for Flannelettes (Plain) (<i>Tentative</i>)	S. R.O. 658 dated 26th March 1959.	No. 1 August 1959	The scope of the standard has been widened by including another variety of flannelettes namely 'flannelettes (plain), striped and scoured' covering defence requirements and consequential changes have been made in the standard.	28th August 1959
2	IS : 175-1951 Specification for Cotton Bed Sheets (<i>Tentative</i>)	Do.	No. 1 August 1959	Provisions have been made to cover an additional variety of cotton bed sheet covering defence requirements and consequential changes made in the standard.	28th August 1959

Copies of these amendment slips are available, free of cost, with the Indian Standards Institution, 'Manak Bhavan', 9 Mathura Road, New Delhi-1 and also at its Branch Offices at (i) General Assurance Building, 230 Dr. Dadabhai Naoroji Road, Fort, Bombay-1, (ii) P-11 Mission Row Extension Calcutta-1, and (iii) 2/21, First Line Beach, Madras 1.

[No. MDC/11(9)].

C. N. MODAWAL
Deputy Director (Marks.)

MINISTRY OF STEEL, MINES AND FUEL**(Department of Mines & Fuel)***New Delhi, the 19th August 1959*

S.O. 1866.—Whereas by the notification of the Government of India in the Department of Mines and Fuel (Ministry of Steel, Mines and Fuel) SRO 3108 dated the 24th September, 1957, under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to prospect for coal in the lands measuring 10,992.40 acres in the locality specified in the Schedule appended to that notification and reproduced in the Schedule appended hereto;

And whereas in respect of the said lands no notice under sub-section (1) of section 7 of the said Act has been given;

Now, therefore, in exercise of the powers conferred by the said sub-section (1) of section 7, the Central Government hereby specifies further period of one year commencing from 24th September, 1959, as the period within which the Central Government may give notice of its intention to acquire the said lands or any rights in or over such lands.

SCHEDULE

Name of Village Thana	Thana No.	Area in Acres	Area required for prospecting
Khetro . . . Peterbar .	45	2628.42	Whole area.
Chalkeri . . . Peterbar .	46	3316.60	Whole area.
Jaridih . . . Nawadih .	19	995.22	Whole area except the area measuring 321.22 acres in which there already exist collieries.
Phushro . . . Nawadih .	67	1073.82	Whole area except the area measuring 306.88 acres in which there already exists a colliery.
Dhori . . . Nawadih .	68	2978.34	Whole area except the area Measuring 1814.40 acres in which there already exists a colliery.

Boundries Description

North.—Village Kathara No. 117, Jarangdih No. 116, Baidkara No. 20, Kargali No. 66.

East.—Village Pichhri No. 49.

South.—Village Pichhri No. 49, Jhujhko No. 48, Basaria No. 47.

West.—Village Basaria No. 47, Keswari No. 44, Champi No. 43, Kaltara No. 117.

[No. C2-6(21)/57.]

B. ROY, Under Secy.

MINISTRY OF FOOD AND AGRICULTURE**(Department of Agriculture)****(Indian Council of Agricultural Research)***New Delhi, the 12th August 1959*

S.O. 1867.—In pursuance of the provisions of the Indian Cotton Cess Act, 1923 (14 of 1923), the Central Government are pleased to appoint the following persons

to be members of the Indian Central Cotton Committee, Bombay for the period shown against each:—

S. No.	Name and address	Section	period upto
1.	Shri Ernst Kuebler C/o M/S Volkart Bros., Bombay. <i>Vice</i> Shri A. Mueller.	4(iv)	31-3-60
2.	Thakur Nahar Singh Kuarsl, Aligarh.	4(viii)	31-3-62
3.	Shri P. D. Nair Agriculture Adviser, Kerala State, Trivandrum, <i>vice</i> Shri K. Sivasankara Menon.	4(ix)	31-3-60

[No. 1-12/58—Com. II/IV.]

New Delhi, the 18th August 1959

S.O. 1868.—In exercise of the powers conferred by section 8 of the Indian Lac Cess Act, 1930 (Act No. 24 of 1930), the Central Government hereby makes the following amendment in the Indian Lac Cess Rules, the same having been previously published as required by sub-section (1) of the said section, name]y:—

For rule 4 of the said rules, the following shall be substituted:—

- 4(1) Save as hereinafter provided, a member of the Committee shall hold office for three years from the date of the publication of the notification in the Official Gazette notifying his nomination or election and shall be eligible for re-nomination or re-election, as the case may be:

Provided that a member elected under clause (iii) of sub-section (4) of section 4 of the Act by either House of Parliament shall cease to be a member if he ceases to be a member of the House by which he was elected.

- (2) A member nominated or elected to fill a casual vacancy shall hold office so long as the member whose place he fills would have been entitled to hold office, if the vacancy had not occurred.

[No. 3-8/58-Com. III.]

AJUDHIA PRASADA, Under Secy.

(Department of Agriculture)

CORRIGENDUM

New Delhi, the 21st August 1959

S.O. 1869.—In the Ministry of Food and Agriculture (Department of Agriculture) notification No. S.R.O. 1443, dated the 16th June, 1958, published on page 1461 of the Gazette of India, Part II—Section 3, sub-section (ii)—

for "Creamery Butter Grading and Marketing Rules, 1941", read "Creamery Butter Grading and Marking Rules 1941".

[No. 3-1/59-AM.]

V. S. NIGAM, Under Secy.

MINISTRY OF TRANSPORT AND COMMUNICATIONS**(Department of Communications and Civil Aviation)***New Delhi, the 20th August 1959*

S.O. 1870.—In pursuance of Rule 160 of the Indian Aircraft Rules, 1937, the Central Government hereby exempts for the period up to the 31st December, 1959, all persons incharge of aircraft engaged in international navigation, from the operation of clause (v) of sub-rule (2) of rule 7 of the said Rules, in so far as it requires such persons to carry in the said aircraft, the aircraft and engine log books, subject to the condition that the working copies of the aforesaid documents are carried in the said aircraft.

[No. AR/1957(56).]

[No. F. 10-A/66-59.]

D. R. KOHLI, Under Secy.

MINISTRY OF REHABILITATION*New Delhi, the 17th August 1959*

S.O. 1871.—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of Punjab for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons;

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires, the evacuee properties specified in the Schedule hereto annexed.

SCHEDULE

Sl. No.	Particulars of evacuee property	Name of the town & locality, village in which evacuee property is situated	Name of the evacuee
1.	H. No. 12 Word No. 4 at Hissar.	Hissar District, Hissar.	M. A. Quershi.
2.	Dyction No. 2 at Simla.	Pagog Simla, Distt. Ambala.	Khan Obiodullah Khan.
3.	Shop No. 83 at Simla.	Mall Road, Simla, Distt Ambala	Roshan Bibi.

[No. 1(1219)-58/Comp.III/Prop.I.]

New Delhi, the 19th August 1959

S.O. 1872.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act No. 44 of 1954 the Central Government hereby appoints Shri Sawan Singh for the time being holding the post of Assistant Settlement Commissioner, Faridabad as Managing Officer for the custody, management and disposal of compensation pool.

[No. 16 (10) Admn. (Prop)/59.]

New Delhi, the 29th August 1959

S.O. 1873.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri Sawan Singh as Assistant

Settlement Commissioner for the purpose of performing the functions assigned to such officers by or under the said Act with effect from the date he took charge of his office.

[No. 5(23)/Admn. (Reg.)/CSC-59.]

M. L. PURI,

Settlement Commissioner
and *ex-officio* Under Secy.

(Office of the Chief Settlement Commissioner)

New Delhi, the 14th August 1959

S.O. 1874.—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of Punjab for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons;

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires, the evacuee properties specified in the Schedule hereto annexed.

THE SCHEDULE

Sl. No.	Details of property	Location	Name of evacuee Owner
1	One residential house No. 2/178, North—Street, South—Karam Din—West—Street.	Village Aur, (in abadi) Tehsil Nawanshehar.	Shri Gulam Rasual, son of Mehtab Din of village Aur, Tehsil Nawanshehar, District Jullundur.
2	One house bounded as below :— North—Guardian of Guru Ram. South—Gali Am. East—Alla Din & Rehmat, West—shop of Abdul Aziz & shop of Maya Ram.	Do.	Shri Hidayat Ulla son of Alla Din Rawal of Village Aur, Tehsil Nawanshehar, District Jullundur.

[No. 3(46)Policy. II/59.]

New Delhi, the 20th August 1959

S.O. 1875.—In exercise of the powers conferred by Clause (a) of sub-section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act No. 44 of 1954, the Central Government hereby appoints Shri S. N. Prasad for the time being holding the post of Officer on Special Duty under the Regional Settlement Commissioner, Bihar, as Managing Officer, for the custody, management and disposal of compensation pool.

[No. 16(18)-Admn(Prop)/58.]

S.O. 1876.—In exercise of the powers conferred by sub-section (1) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints Shri S. N. Prasad for the time being holding the post of officer on Special Duty under the Regional Settlement Commissioner, Bihar, as Assistant Custodian, for the purpose of discharging the duties assigned to the Custodian by or under the said Act, with effect from the date he took over charge of his office.

[No. 16(18)-Admn(Prop) 58.]

M. L. PURI,

Settlement Commissioner (Admn.) &
Ex-Officio Under Secy.

(Office of the Chief Settlement Commissioner)

New Delhi, the 20th August 1959

S.O. 1877.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri Jagmohan Lal Tandon, P.C.S., Competent Officer, Punjab to the post of an Assistant Settlement Commissioner in the State of Punjab, for the purpose of performing in addition to his own duties as Competent Officer, the functions assigned to an Assistant Settlement Commissioner by or under the said Act, in respect of agricultural lands, shops and other immovable properties in any rural areas.

[No. F. 3(43) Policy-II/59.]

I. N. CHIB,

Deputy Chief Settlement Commissioner and
Ex-Officio Dy. Secy.

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 12th August 1959

S.O. 1878.—The Government of the State of Mysore having nominated, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Employees' State Insurance Act, 1948 (34 of 1948), Dr. D. V. Nadkarni, F.R.C.S., F.I.C.S., Director of Medical Services, Government of Mysore, as a member representing the said State on the Medical Benefit Council, in place of Dr. Venkatarasubba Rao, the Central Government, in pursuance of the said section 10, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment HI-1(1)/58, dated 1st July 1958, namely:—

In the said notification, under the heading 'Members' for item (14), the following item shall be substituted, namely:—

"(14) Dr. D. V. Nadkarni, F.R.C.S., F.I.C.S., Director of Medical Services, Government of Mysore".

[No. F.HI-1(132)/59.]

BALWANT SINGH, Under Secy.

New Delhi, the 13th August 1959

S.O. 1879.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Delhi, in the industrial dispute between the employers in relation to the Palana Colliery and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DELHI

PRESENT:

Shri E. Krishna Murti, Central Govt. Industrial Tribunal.

27th July, 1959

I.D. No. 81 of 1958

BETWEEN

The employers in relation to the Palana Colliery

AND

Their workmen.

Shri M. G. Frill—for the management.

Dr. Jawahar Lal—for the workmen.

AWARD

By G.O. No. S.R.O. LRMI/55-5(10)/57, dated the 22nd April, 1958, the industrial dispute, between the employers in relation to the Palana Colliery, and their workmen, has been referred to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947.

2. The term of reference is as follows:—

What should be the wage structure of the workmen of the Palana Colliery keeping in view the Award of the All India Industrial Tribunal (Colliery Disputes) as modified by the decision of the Labour Appellate Tribunal, on appeals against the said award?

3. It is alleged on behalf of the workmen, that, as a result of the award of the All India Industrial Tribunal (Colliery Disputes), as modified by the Labour Appellate Tribunal, the wage structure for several categories of Colliery workmen has been specified, that the said decision had been accepted by the Government of Rajasthan unconditionally, that there are several agreements between the Government and the workmen of the Palana Colliery in implementation of the said award, that certain payments have been made according to the said decision, that however, regarding the piece rate wages of Coal Cutters for their normal duties of cutting and loading coal, there is a dispute with the management, that they had brought about illegal reduction in wages of Coal Cutters, that even in the case of Coal Cutters wages the payment of load and lift has been regularly made, and that in regard to payment of push tub wages for Coal Cutters, amounting to Rs. 47,358.88, the management had moved the Government of Rajasthan for sanction of payment of the same.

4. On behalf of the management of Palana Colliery, it is alleged, that the Award of The All India Industrial Tribunal (Colliery Disputes) has been implemented in the main, that the categorisation of the employees, as laid down in the Award has been carried out, that the workers have also been given total emoluments, as laid down in the Award, that this had been done wherever possible in consultation with the Union, that there are still certain questions in dispute, that the total emoluments of Coal Cutters as well as their work load is a matter of dispute, that the Coal Cutters had been doing up 9 tubs of 20 C.F. a day during a 8 hours shift, that this included tramping, that, as per the Coal Award, separate trammer had been engaged, that therefore, a Coal Cutter can now do $1\frac{1}{2}$ times as much work as he was doing previously, that this would work out to $13\frac{1}{2}$ tubs per day, that however, in order to adjust work-load, it should be 9 tubs if separate Trammers are engaged, that the piece rate of the Coal Cutters should be $\frac{1}{5}$ divided by 9, that the rate for push tubs cannot be the same, as laid down in paragraph 604 of the Coal Award, that it is not the general practice in the industry to pay Sunday wages to any Colliery workers, piece rated, or time rated, that however in spite of protest by the management a provision was included in the Standing Orders of the Colliery, providing for payment of weekly holidays with pay for all classes of workmen, that the Standing Order should be modified that, in any case, daily emoluments should be fixed in such a manner as to assure daily rated employees the total monthly emoluments and no more, that the bills for arrears of wages under the decision of the Coal Award were under preparation, that there has been no reduction in the wages of Coal Cutters, that the management of the Palana Colliery have always been ready and willing to implement the Coal Award, and that the present dispute has arisen because of the unreasonable attitude of the Union.

5. The issues, that arise for determination, are:—

- (1) What should be the wages for the Coal Cutters?
- (2) What should be the work load for the said Coal Cutters?
- (3) What is the rate of wages to be paid for pushing tubs?
- (4) From what date should the respective wages be paid?
- (5) Whether the workmen are not entitled to Sunday wages?
- (6) To what relief are the several workmen entitled?

Issues No. 1 & 2

6. This is a dispute between the employers in relation to the Palana Colliery, and their workmen, the said dispute having been taken up by the Palana Colliery Mazdoor Union.

7. The references raise the question of the wage structure of the workmen of the Palana Colliery, Palana, keeping in view the Award of the All India Industrial Tribunal (Colliery Disputes), as modified by the decision of the Labour Appellate Tribunal as appeals against the award, which shall hereinafter be referred to, for the sake of brevity, as the Coal Award. In the Award of the Industrial Tribunal (Colliery Disputes), as modified by the decision of the Labour Appellate Tribunal, it is mentioned therein, that the reference included only one Colliery belonging to the State, that the notice of reference was advertised in one of the papers circulated in Rajasthan, that notices were also sent by registered post, that no appearance had been entered either on behalf of the management, or the owners, that no statement had been filed, and that, in these circumstances, the Tribunal directed the management to bring the wage structure in line with the wage structure suggested by them for the rest of the country.

8. It may be stated at the outset, that on behalf of the Union a petition (I.A. No. 27 of 1958) was filed for modification of the reference on the ground, that it should have been "what should be the wage structure of the Coal Cutters (Piece rated) of the Palana Colliery, Palana in implementation of Paragraph 699 of the Award of the All India Industrial Tribunal (Colliery Disputes) *mutatis mutandis* as per modification made by the Labour Appellate Tribunal's decision on the said award." This petition was however dismissed on the ground, that this Tribunal had no jurisdiction to modify or amend the reference as prayed for. The contention on behalf of the Union is, that the dispute really relates to the implementation of the All India Award regarding Colliery Disputes, and that there is no general question as to the wage structure of the workmen of the Palana Colliery, Palana, as noted in the order of reference. At the time of trial before me the parties were at dispute only in respect of three items, namely (i) wages payable to Coal Cutters (Piece rated); (ii) wages payable for pushing tubs, and (iii) payment of wages on Sunday.

9. In the petition, I.A. No. 27 of 1958, it is alleged, that the Coal Award had been accepted by the Government of Rajasthan, and that various agreements had been arrived at in respect of all categories of workmen, except in regard to the matters in dispute, referred to above. In the statement filed on behalf of the management it is alleged as follows:—

"It is, therefore, submitted that this Tribunal has the jurisdiction not only to deal with the dispute as raised by the Union but with the wage structure as a whole. The award of the Tribunal, therefore, would bind both parties not only in regard to the wages of the coal cutters but in regard to all matters connected with the wage structure. Such matters in connection with the wage structure, on which there is no controversy, may be incorporated as part of the Award. On the other points on which the management has made its submission below, the dispute may be decided by the Honourable Tribunal."

At page 4 of the statement it is stated as follows:—

"It was decided by the Government of Rajasthan that the Colliery Award was to be implemented. In accordance with this decision of the Government, the categorisation of the employees as laid down under the Award has been carried out. The workers have also been given total emoluments as laid down under the Award. This has been done in consultation and wherever possible under agreement with the Union. However, there are still a few other questions left unsettled because of the unreasonable demands of the Union. These questions are dealt with below."

At page 7 in reply to the Union's statement it is alleged, that paragraphs 1(a), (b), (c), (f), (g), (h), (i), (j), (k), (l), (m), and (n). In the claims statement in paragraph 1(q) it is alleged, that the Government of India was requested to appoint a Tribunal only to get the case of Coal Cutters wages settled therein. With reference to paragraph 1(d), it is alleged, that the Award of the All India Industrial Tribunal and the Labour Appellate Tribunal were accepted by the Government and that a partial settlement was arrived at with the Union on 11th April 1957. The management admitted (i) that deductions for house-rent made under paragraph 529 of the Coal Award were refunded as per the Labour Appellate Tribunal Decision, (ii) that equal wages to female workers (Piece rated, and time rated) had been granted as per the Coal Award, (iii) that 7 festival holidays as provided under the said Award have been granted, (iv) that Under ground allowance, according to the decision, has been paid, (v) that concessions of supply of food grain have been discontinued, and (vi) that the clerical and mining staff had been fixed in grades as provided for by the said Award. In reply to paragraph

1(e) of the Union statement, the management allege, that bills for arrears of wages under the decision of the Coal Award were under preparation for the period from 26th May 1956, and that the calculations were made in accordance with the agreement arrived at between the management and the Union. The management were making payment according to the agreement from 1st January 1958. Paragraph 1(o) of the statement of the Union relates to payment of push tubs. Paragraph 1(p) relates to payment of piece rate wages to Coal Cutters, and paragraph 1(r) to the alleged illegal reduction in the wages of Coal Cutters by the management. A Supplementary statement as filed by the management dated 8th August 1958 in answer to the further statement that was filed by the Union dated 14th July 1958.

10. It is clear from the foregoing, that the dispute between the parties in this proceeding only relates to payment of wages to Coal Cutters and for pushing tubs, and about payment of Sunday wages. These are the subject matter of the three issues that have been raised in the supplementary statement of the management. On behalf of the workmen reference has been made to certain documents in this connection. Ext. W/6 dated 22nd September 1958 is a copy of a letter from the Mines Manager to the Secretary, Palana Colliery Mazdoor Union, informing him, that the Government of Rajasthan had accepted the Coal Award, and that 12 Coal Cutters, 4 in each shift, should be engaged to drive the gallery. Ext. W/7 is a communication of the Government of India dated 4th March 1958, in regard to the implementation of the Coal Award. Ext. W/11 dated 3rd October 1956 has been filed to show the categorisation and fixation of wages of workmen of the Palana Colliery, commencing from 26th March 1956, as fixed by the Mines Manager. Ext. W/21 dated 28th June 1957 has been produced as showing the categorisation and fixation of wages of the workmen of the Palana Colliery, Palana as per the list of permanent workmen. This categorisation was done by the Labour Inspector, Jodhpur, and was accepted by the management and the Union. Ext. W/31 shows the mutual agreement of the final categorisation and fixation of wage structure of the workmen (Daily rated and piece rated loading workers), the rates of wages being applicable from 26th May 1956. Ext. W/32 relates to the agreement on the final categorisation and fixation of wages of workmen (Monthly rated) of Palana Colliery, the rates being applicable from 26th May 1956. Ext. W/33 is the agreement on the final categorisation and fixation of wages of the workmen retrenched on different dates after the enforcement of the Award, the rates and wages being applicable from 26th May 1956. The above agreements are all dated 10th January 1958, and are signed by Mr. Fell, the Mines Manager, Dr. Jawahar Lal, Patron of the Union, and Shri T. G. Moorjan, the Labour Inspector, Jodhpur. I may next refer to paragraph 4 of Ext. W/22 dated 1st July 1957, which is a letter from the Regional Labour Commissioner. It is stated therein, that there remained only the issue relating to Coal Cutters, that, his suggestion was, that both the Mines manager and the Union representative should go and visit a few coal mines in Bengal and Bihar and ascertain there the average daily wage structure of Coal Cutters and then fix up work load and wage structure of Coal Cutters of Palana Colliery accordingly, that both parties had accepted his suggestion, and that the Mines Manager had sent a telegram to the Secretary, Government of Rajasthan for permission to visit the coal fields in Bengal and Bihar. Ext. W/30 is a copy of the said telegram. In Ext. W/23 the Labour Inspector wrote, that the Mines Manager had intimated to him, that no useful purpose would be served by his accompanying the Union representative to Bengal and Bihar, and that the question of wage structure and work load of the Coal Cutters should be decided during discussions held with the Deputy Labour Chief Commissioner. It is recited in Ext. W/23, that no agreement could be arrived at on the issue of work load of Coal Cutters between the management and the Union during the discussions held with the Deputy Labour Chief Commissioner. Ext. W/35 is a letter of the Labour Inspector, Jodhpur to the Mines Manager dated 13th May 1959, drawing his attention to non-payment of difference of wages to daily rated, monthly rated, and the 62 retrenched workers, as per the rates in the Coal Award. The following sentence also occurs there:—

"The disputed matter relating to fixation of work load and wage structure of piece rated Coal Cutters has nothing to do with payment of arrears of wages to all other workers, whose categorisation has been done, and wages fixed in terms of the Coal Award, for which you have already signed an agreement with the Palana Colliery Mazdoor Union. The non-payment of arrears of these wages for nearly three years constitute serious breach of the Coal Award."

Ext. W/42 dated 25th April 1958 contains a list of permanent workmen. From a perusal of the documents referred to above, it will thus be seen, that there has been agreement between the Union and the management in respect of most of

the matters relating to wages structure in accordance with the terms of the Coal Award. The dispute is only in respect of the three items set out above, and referred to in the supplementary statement of the management. In fact in the re-joiner filed by the Union by way of reply to the supplementary statement filed on behalf of the management, it is alleged in paragraph 2(xv) as follows:

"The management have now finally admitted before the Honourable Tribunal on the 8th instant, that the present dispute is confined to the fixation of wages of the Coal Cutters for their normal duties of cutting and loading coal."

The workmen have filed their reply in respect of wages of Coal Cutters, push tub wages, and Sunday Wages.

11. The wage structure as laid down in the Coal Award has been adopted as a matter of agreement between the Union and the management except in regard to the matters specified above. In fact both parties have not even led any evidence except in regard to the items in dispute, as set out in the issues. The evidence of Shri T. G. Moorjani, WW1, Labour Inspector, Jodhpur, is, that they finalised matters in respect of all Categories, except Coal Cutters. He suggested, that the dispute regarding Coal Cutters should be resolved. He inspected the mines in 1958. The payments to all workmen, other than Coal Cutters, are as per the agreements, Ext. W/31, 32, and 33, with effect from 1st January 1958. These are applicable from 26th May 1956, the date when the Coal Award came into force. The Mines Manager told him, that he had asked the Government to keep the question of payment of arrears pending till the present dispute was decided. He has been sending reports about the non-implementation of the Coal Award by the Palana Colliery, and Ext. W/36 is the file containing his reports. In cross-examination it is made clear, that the suggestion, that he made regarding the wages of colliery workers in Bengal and Bihar, was to be confined to Coal Cutters only, and that was the point of dispute of the agreement.

12. Therefore, the matters, that arise for determination in the present reference, are those that have been set out in the issues framed above. In the first place, taking the question of wages payable to Coal Cutters, it is important to remember the directions contained in paragraph 698 and 699 of the Award of the Industrial Tribunal, that the management of the Palana Colliery should bring the wages structure in the Palana Colliery in line with the wage structure fixed for the rest of the country. This direction had not been modified in any manner by the Labour Appellate Tribunal. In the statement dated 14th July 1958, filed on behalf of the workmen, certain formulae have been set out in the matter of fixation of wage structure. The formulae are not in accordance with the directions given in the Coal Award, and cannot be accepted.

13. The Coal Cutters are in Category V, and the total emoluments of all the categories of workers upto category X are set out at page 140 of the Award of the Industrial Tribunal and page 31 of that the Labour Appellate Tribunal. The Labour Appellate Tribunal has dealt with the Pick Miners at page 42 of the Award. For category V workmen the Labour Appellate Tribunal increased the basic wage from 1/3/- to Rs. 1/5/-. The total emoluments of a Pick Miner were fixed at Rs. 3/10/4 per day, without including other earnings by way of lead and lift etc. In paragraph 104 of the Award it is mentioned as follows:—

"In the result, the pick miner in Bengal and Bihar, both in the gallery face and in the depillaring area, shall be entitled to the wages and total emoluments as for Category V. He will be paid Rs. 3/0/8 for cutting and loading a tub of 36 cft. and he will be paid at the same rate for every additional tub of the same capacity and proportionately for part of a tub."

In fact the management have accepted the principle, that they are bound to pay the wages as fixed by the Coal Award. MW1, Shri Mukerjee, who was the former Mines Manager, has deposed, that so far as the total emoluments are concerned, the management are bound by the Award, but that the work load must be fixed for piece rated workmen, the lignite cutters.

14. It will be seen, that the amount of Rs. 3/0/8, decided to be paid to a Pick Miner is for cutting and loading a tub of 36 cft. He is to be paid at the same rate for an additional tub of the same capacity, and proportionately for a part of the tub. What is important to note is, that the said wage of Rs. 3/0/8 is linked to the work-load of cutting and loading a tub of 36 cft. The above mentioned piece rate wage was liable to decrease or increase according to the quantity cut and loaded. In other words, the wage fixed by the Coal Award for pick Miners is linked to the work-load the said work-being a tub of 36 cft.

15. The Coal Cutters of Palana Colliery are in the same category as the Pick Miners of Bengal and Bihar, and they must be included in Category V, as determined under the Coal Award. They are also entitled to recover the same emoluments as determined under the said Award. They are piece rated workers, and their total emoluments shall be Rs. 3|10|4, as determined by the Labour Appellate Tribunal. This will fit them into the wage structure as decided in the Coal Award.

16. The contention however on behalf of the management is, that the emoluments of the piece rated workers in Palana Colliery cannot be irrespective of work-load, and that the wages fixed in the Coal Award must be linked to work load. There can be no dispute, that, on principle, the said earnings should be linked to work load, when the Coal Cutters like the Pick Miners are piece rated workers. In fact in the Award of the Labour Appellate Tribunal in paragraph 104, set out above, the wages of Rs. 3|0|8 have been linked to the work load of cutting and loading a tub of 36 cft. The Union cannot go behind the above direction in the Coal Award, and the wages of the piece rated Coal Cutters in the Palana Colliery also must be linked to the minimum work load.

17. The point for determination, therefore, is about the work load, which ought to be fixed for the piece rated Coal Cutters. There is no doubt, that the wages of Rs. 3|0|8, fixed in the Labour Appellate Tribunal's Award, are for a shift of 8 hours. The contention on behalf of the workmen is, that the same basis, as was adopted in the case of Pick Miners of Bengal and Bihar, must also be adopted in the case of workers of Palana Colliery also, and that the wages of Rs. 3|0|8 must be linked to the work load of cutting and loading a tub of 36 cft. It however appears from the evidence, that in the Palana Colliery the tub, that is being used for cutting and loading coal, is of 20 cft. The contention on behalf of the present workmen is, that in no case the work load should be more than 1 20/36 cft., according to a tub of 20 cft. and that the piece rated Coal Cutters are entitled to wages of Rs. 3|0|8 for cutting and loading one tub of 20 cft., plus a tub containing 20/36 cft. In other words, it is argued, that it must be in the same proportion as fixed in paragraph 104 above of the Labour Appellate Tribunal's Award, keeping in mind the difference of the cubical contents of the tub in Bengal and Bihar on the onehand, and the Palana Colliery on the other. The management however do not accept this contention. According to them, in the case of piece rated Coal Cutters the total emoluments can be assured only by keeping the work-load, as it was before the Award came into force. It is urged before me that from the records maintained by the management it will be seen, that the Coal Cutters had been doing 9 tubs of 20 cft. a day during a shift of 8 hours. This was inclusive of trammings the empty tubs from the shaft bottom to its working place, and the loaded tub back to the shaft bottom. However in the Coal Award it is directed, that it is not the job of Coal Cutters to do the trammings also. The management have accordingly engaged separate Trammers. The Coal Cutters are no longer doing the trammings job. The management have about 10 Trammers and 20 Miners per shift. It is, therefore, urged, that the Coal Cutters are no longer doing trammings work, that they can do 1½ times as much work as they were doing previously, and that this could work out to a work load of 13½ tubs per day. However, in order to adjust the work load to the capacity of the average Miner, the lowest work load should be 9 tubs. Thus the contention on behalf of the management is, that the work load of the Coal Cutters should be 9 tubs of 20 cft., and that the tub rate should be Rs. 1|5|-

9

18. Thus the parties are at dispute as to the fixation of the work load. On behalf of the management, we have the evidence of Shri A. V. Mukerjee, who was the Mines Manager from 21st October, 1944 to 15th December, 1957. According to his evidence, the Miners were doing the lignite cutting, loading the cut lignite into tubs, taking empty tubs from the shaft level to the working face, and bringing the loaded tub to the shaft level. They were generally doing 6 tubs of 20 cft. each, but at times they could do and actually did as many as 9 tubs. The Miners at Palana had been always doing 6 tubs per head per shift of 8 hours, and also trammings. Because they do not do the trammings work now, they must give 9 tubs, i.e. 50 per cent of 6 tubs plus the original 6 tubs, in all 9 tubs. His further evidence is, that output was restricted in his time to only 2,500 tons per month because he was the holder of a II class certificate of competency. With a view to restrict the output, he had either to retrench some of the Coal Cutters, and allow the rest to raise the full complement of tubs, or he had to restrict a part of output, so that he did not exceed 2,500 tons. He preferred not to retrench but to restrict the output. Therefore during the beginning of the month of the Miners were allowed to raise the full complement of 6 tubs per shift, but towards

the end of the month the output was restricted, so that the total output was not more than 2,500 tons per month. He proves Exts. M/3, 4, and 5, the Muster Rolls, showing the amount of lignite mined and it ranges from 6 to 5 tubs per head per day. He makes it clear, in cross examination, that normally the output is 6 tubs of 20 cft., and occasionally it was 9 tubs. His further evidence is, that 9 tubs must be the work, load, and that the wages may be fixed as in the Award. He has been obliged to admit in cross-examination, that during a lay-off period he paid lay-off compensation on the basis of work load of 5 tubs. His further evidence is, that he paid Sunday wages to Coal Cutters on the basis of a minimum of 4 tubs, but this included tramping also. He denies the suggestion in cross-examination, that some Coal Cutters remained absent because the work-load of 6 tubs per head per shift was heavy, and that they could not give 6 tubs per shift. His further evidence is that Pick mining is going on in the Palana Colliery except when there are falls. The method of mining is purely pick mining. Thus the evidence adduced on behalf of the management, is that, the work-load must be fixed at about 9 tubs of 20 cft.

19. On behalf of the Union we have the evidence of Shri Arjun Ram, who is the President of the Palana Colliery Mazdoor Union. According to him, he was a Coal Cutter in the Palana Colliery for nearly 8 years, and he started working as such from 1948. He was for 6 months Head Charge man from 26th February, 1956 to 18th August, 1956. Shri Arjun Ram says, that Coal Cutter has to cut the coal and fill it in tubs. He has no duty of tramping, and that duty is done by Haulers. If the work was done on coal faces, the output was 2 to 2½ tubs of 20 cft. each. If the work of dressing was done, then the output was from 3 to 4 tubs. When the depillaring operations were taken, falls took place, and then the output became 5 or 6 tubs. In those days the duty of Coal Cutters was only to load the tubs with loose coal. In those days at the end of 1951 they could bring 6 tubs per Coal Cutter, but this was due to depillaring operations and falls. At that time a Coal Cutter's duty was only to load, and not to cut the coal. It is not possible to give the same output, now, because formerly the Coal Cutters were taking coal from falls. Now the Chief Inspector of Mines has prohibited the operation of pillar extractions, as also double splits in the pillars. Because of this they have to work in the coal face only. Due to heat and lack of ventilation a Coal Cutter cannot work and load more than 2½ tubs at present. He visited a colliery situated near Jharia on 28th September, 1958. He went inside, and also did pick mining. Palana Colliery was more dangerous to work in, than Bengal and Bihar Collieries. In cross-examination he says, that during the times of pillar cutting and occurrences of falls 6 tubs of 20 cft. were given. But otherwise the Coal Cutters were able to give about 2 or 3 tubs. Shri Arjun Ram admits, that, as Shri Mukerjee was only a Second Class Mines Manager, the output was restricted to 2,500 tons. He however adds, that, even if this restriction was not there, it was possible to get more tubs only if there was coal cutting or if falls were there. He is definite that it is not possible to give more than 2 or 3 tubs, when working on a coal face.

20. It will thus be seen, that whereas the contention of the management is, that the work-load must be fixed at 9 tubs of 20 cft., the answer on behalf of the Union is, that it cannot be more than 3 tubs of 20 cft. in any case. Support is sought for the contention on behalf of the management on the ground, that the conditions of working in coal mines in Bengal and Bihar are more difficult and strenuous than in the Palana Colliery. Because, whereas coal is mined in Bengal and Bihar, lignite is mined in Palana Colliery. According to the evidence of Shri Mukerjee in the matter of mining, lignite is of a soft nature, and is easily cut, and it disintegrates while exposed to atmosphere. Lignite is the stage after peat. The density is much lower than that of bituminous coal. The latter is very difficult to mine, very hard to cut, and is not easily disintegrated. Extensive blasting by explosive is necessary to mine coal, and it is also heavier. It is argued on behalf of the management, that conditions in the Palana Colliery are far easier than in the coal mines of Bengal and Bihar, that this fact must be borne in mind in fixing the wage structure of the Coal Cutters, that it cannot be on the same basis as that laid down in the Coal Award, and that due allowance must be made for the fact, that lignite is mined in Palana. It is accordingly urged that the work-load of the piece rated Coal Cutters at Palana must be fixed as contended by them. I have referred to the evidence of Shri Arjun Ram, that, as compared to the collieries of Bengal and Bihar, working at Palana is more dangerous. In this connection, attention is drawn to Ext. W/58, which is the copy of a letter dated 9th February, 1957 from the Chief Inspector of Mines in India, to the Government of India. It is mentioned therein, that, though the coal at Palana Colliery is soft, the conditions are rather arduous, and extraction of coal

is difficult, and that the management were not justified in reducing the wages of the workers. In my opinion, the fact, the lignite is mined in the Palana Colliery, is no reason for according to the contention of the management, that easier conditions prevail in the said Colliery, and that the work-load must be fixed at 9 tubs of 20 cft. As pointed out on behalf of the workmen, in the past, some times the workmen were able to give increased number of tubs because of falls and also depillaring and double splits which have now been prohibited. Ext. W|39 is a copy of the letter from the Mines Manager to the Secretary of the Union, that the question of pillar extraction had been taken up with the Chief Inspector of Mines, that the conditions then were more favourable than before the commencement of "Splitting". If the Chief Inspector of Mines agreed to depillaring, there was no reason why increased out-put could not be given with the same number of Coal Cutters. Ext. W|38A is a copy of the letter dated 6th May 1958, from the Chief-Inspector of Mines to the Mines Manager, and it is stated therein, that the lignite and overburden are of a soft nature, and as such difficult to support, and the permission for driving 2 splits to each pillar, could not be granted. In Ext. W|38 the Mines Manager stated, that, in view of the fact, that double splitting was not permitted, the present working would be exhausted by the end of June 1958, if not earlier. When it is thus clear, that permission for driving two splits to each pillar was refused, the management's insistence on work load as contended by them, cannot be accepted.

21. At the same time, I am unable to attach any weight to the contention on behalf of the Union, that the work load cannot be fixed at more than 2 or 2½ or 3 tubs of 20 cft, as spoken to by Shri Arjun Ram, and that it is not possible to give more than 2 or 3 tubs, when working on coal face. Ext. M|1 is the copy of a statement filed before the All India Industrial Tribunal (Colliery Disputes) by the Union, and it is dated 5th May 1954. A copy of this was endorsed to the Manager, Palana Colliery. In paragraph 5 the allegation is, that the average out-put of a Coal Cutter was about 6 tubs a day, which brought him Rs. 2|8| per day, but, on failure of electricity, his progress came down to 1 or 2 tubs or nothing at all, though he spent the whole day on duty. Ext. M|2 is a letter, that was sent on behalf of the Union to the Mines Manager in 1954. Attention is drawn to the recital therein, that a Coal Cutter was capable of raising 6 tubs per day, but that his out-put was restricted to 4-5. When his attention is drawn to Ext. M|2, Shri Arjun Ram Admits, that it is written by him in his own hand, and that it is signed by him. He also admits Ext. M|1. The explanation is however given, that the output, as given in these documents, cannot be given now, because they were taking coal formerly from falls. Now however such pillar extraction and double splits in the pillars has been prohibited. Because of this, working can be only in the coal faces.

22. On behalf of the management, the Muster Rolls have been relied upon to prove, that the out put that was being given, was much more than 2 or 3 tubs. Shri Mukerjee has spoken to the Muster Rolls. Ext. M/3, 4 and 5. The contention on behalf of the Union with reference to the Muster Rolls is, that the out-put therein mentioned related to falls and not to face cutting. When his attention is drawn to Ext. M/3C, wherein the out-put is shown as 6, 7, or 8 tubs, the answer of Shri Arjun Ram is, that he does not agree with the figures and they are not correct. In the re-joinder filed on behalf of the Union to the written statement of the management, at page 9, there is reference to the records maintained by the management in relation to out-put of Coal Cutters in the past. It is alleged on behalf of the Union, "that the management had prepared forged records of the out put to cheat the Government by showing more out-put than actual, and thereby drawing payment of muster rolls in excess for years together and actual disbursed by them to the labour." It is further alleged by the Union, that they had many proofs in their possession oral and documentary to prove the charges, and that the facts of committing forgery and deception by the management has also been brought to the notice of the Chairman, Estimates Committee, of the Vidhan Sabha. The contention on behalf of the Union, that the records relied upon by the management, particularly the muster rolls and other statements showing the out-put are forged and that they should not be taken into account, is not tenable. In my opinion, the allegations made above are without foundation and border on recklessness. The alleged evidence in proof of this is not forthcoming. I see no sufficient grounds for dis-believing the truth and genuineness of the muster rolls, and Appendix I attached to the management's written statement. The books have been kept in regular course of business. The allegation that the muster rolls contain forged entries made with a view to cheat Government to enable drawing of larger amounts in excess of the actual amount spent, is beneath criticism. There is no satisfactory evidence on behalf of the Union, in support of this contention, and the mere assertion of Shri Arjun Ram, that entries in the muster rolls are not

correct, does not afford proof of the same. The truth and genuineness of these documents receives support from the documents of the Union, Exts. M/1 and 2, which are admittedly signed by Shri Arjun Ram. I am satisfied, that the muster-rolls and the other documents relied upon on behalf of the management are quite genuine, and kept in regular course of business and the objection levelled against them on behalf of the Union is of no force.

23. Granting, that in the muster rolls, there is evidence of the fact, that in the past the out-put amounted to about 6 tubs, even as mentioned in Exts. M/1 and 2, it is quite likely that this quantity was given when there was no prohibition against depillaring, and also when double splits in pillars was not prohibited. It may also be, that such out-put was given on account of falls and on account of loading of only loose lignite. In this connection I may draw attention to Appendix I, attached to the supplementary statement on behalf of the management, which shows the average *per capita*, out-put of a Pick Miner in Palana Colliery in 1953, 1954, and 1955. The average *per capita* out-put is 4.91. I see no sufficient grounds for disbelieving the truth and genuineness of the figures on the basis of which this statement has been prepared. In this connection attention should also be drawn to certain documents filed on behalf of the Union. Ext. W/24 dated 12th November 1957 is a letter of the Union, signed by Shri Arjun Ram. It is stated therein that, in spite of their request to increase the number of Trammers per shift, to enable the Coal Cutters to cut and load 4 tubs each per shift, the Manager had paid no heed to this important matter, and that this had resulted in loss of wages to Coal Cutters. In another letter, Ext. W/44 dated 14th March 1958, it is stated that it was only by applying a very high degree of abnormal labour, that the Coal Cutters were able to cut and load 3 or 4 tubs per worker per shift, and that in the event of applying normal labour the out-put would have gone down, to a tub or a half during that critical period.

24. The contention on behalf of the management is, that, even though the Miners were capable of giving 5 or 6 tubs, they deliberately adopted go slow tactics. Ext. M/11-27 relate to the correspondence in this connection. There does not seem to be any doubt, that after the dispute started with the management, the workmen deliberately adopted go slow methods and slowed down the out-put, and brought it down to 2 or 3 tubs per shift per day, as mentioned in the several letters.

25. The evidence on either side considered as a whole, leads to the conclusion, that the contention on behalf of the workmen that the out-put cannot be fixed at anything more than 2½ or 3 tubs of 20 ft. per Coal Cutter per shift cannot be accepted and it is against the plain inference yielded by Ex. W/24. Neither am I prepared to accept the contention on behalf of the management, that it must be at least 6 or 5 tubs of 20 cft. As already indicated, this out-put may have been possible when coal was loaded from falls, or when double splits were allowed through pillars. In Appendix I of the supplementary statement of the management the normal average out-put for a period of 3 years was shown to be 4.90. Attention may be drawn to the Standing Orders, Ext. W/9. Schedule A therein contains a note, that at least 5 days' attendance per week for every labourer, and at least 20 tubs were to be brought by each Miner to entitle him to the issue of food grain at concession rate, and that this was to reduce absenteeism and to keep up the *per capita* out-put. Stress is laid on behalf of the Union to show, that the out-put was taken to be 4 tubs per head per day. I have already drawn attention to Ext. W/24 dated 12th November 1957, wherein the Mines Manager was requested to increase the number of trammers to enable the Coal Cutters to cut and load 4 tubs each per shift. It was further suggested at page 2 that the out-put had been decreased from 300 tubs to 160 tubs. Even on the documents produced on behalf of the workmen it is perfectly clear, that the normal average out-put has never been less than 4 tubs per shift per Coal Cutter, even confining such cutting of coal to cutting from a coal face. In paragraph 583 of the original Award it is observed, that it was very difficult to determine what would be the out-put under ideal conditions. It depended upon the gradient of the mine, the thickness of the roof, the nearness of the workings to the pit mouth the depth of the seam, ventilation conditions, mechanisation, etc. The following sentence occurs therein:—

"We can, therefore, talk only in terms of averages keeping these factors in view."

In paragraph 764 it is observed as follows:—

"Because of this, the work loads fixed by us are more or less, averages of what they have been turning out and not based on any time or motion studies, which alone would enable us to assess scientifically how much a worker should produce.

This is different from how much he has been producing which has been taken as the basis to fix the work loads that we have laid down for them." Considering the average out-put, that the workmen had been giving in the past, it is legitimate to hold, that it has been not less than 4 tubs of 20 cft. per shift. This is however not to say, that the work-load should be fixed at 4 tubs only because this work-load was being given at a time when the workmen were also obliged to do tramming work. I see no sufficient grounds for dis-believing the evidence on behalf of the management in this connection, and it establishes that the workmen were also doing tramming in the past. Now under the Coal Award, the Coal Cutters are relieved from the obligation of tramming, and separate wages are being paid for the same. In view of the fact, that they have been relieved of the work of tramming of tubs, it is legitimate to add a little more to the work load of 4 tubs of 20 cft. which were being given as out put, when the Coal Cutters were also obliged to do tramming. It is fair and reasonable to hold, that the out-put should be fixed at 4½ tubs of 20 cft. per shift per Coal Cutter.

26 Moreover I may draw attention in this connection to the observations of the Labour Appellate Tribunal in paragraph 104, that the emoluments of Rs. 3|0|8 were fixed as the wages of a Pick Miner, both in gallery face and in the depillaring area, subject to a work load of 1 tub of 36 cft. I find, that in the Palana Colliery the wages for a piece rated Coal Cutter should be Rs. 3|0|8 for cutting and loading 4½ tubs (four and a half tubs) of lignite by a tub of 20 cft. per head per shift, and this shall be the rate and work load both in the gallery face, and in the depillaring area; and he will be paid at the same rate, and on the same basis, for every additional tub of the same capacity, and proportionately for a part of a tub. I further find, that the total emoluments of a piece rated Coal Cutter, giving the above work-load, shall be Rs. 3|10|4 as awarded to workmen included in Category V as mentioned in paragraph 69, page 31, of the Award of the Labour Appellate Tribunal and on the conditions fixed by the Labour Appellate Tribunal.

Issues No. 3 & 4.

27. It is alleged in the statement dated 14th July 1958 filed on behalf of the Union, that the management had agreed to make payment of push tub wages to Coal Cutters in terms of paragraph 604 of the Award as long as they had performed this duty, and that an amount of Rs. 47,359.98, on account of push tub wage is due to the workers, and that payment of *pro rata* push tub wages as raised by the management had been ruled out by the Tripartite Committee, set up by the Government of India. It is further alleged, that the payment of push tub wages due to the Coal Cutters of Palana relates to a period prior to 1st March 1958, and that no reduction can be made by the management out of the same. The contention on behalf of the management is, that the decision of the Tripartite Committee is, that the rate for pushing tubs should be calculated on *pro rata* basis. So far as payment of wages for pushing tubs is concerned, the following is the direction in the judgment of the Labour Appellate Tribunal:—

"There is a demand, that where the Miners are required to push tubs, whether empty or full, the Miners should be paid extra where the distance exceeds 100 feet at the rate of -|1|- for every 100 feet. Mr. Ginwalla has opposed the same. We agree, that it is not the duty of the Miners to push the tubs. It is the Trammer's job. If there is any distance limit for the Trammers in any of the collieries, and if Miners are asked to push tubs, it is only reasonable that they should be paid a consolidated payment of -|1|- for every 100 feet, or part thereof in excess of the first 100 feet." The contention on behalf of the management is, that, according to the above decision of the Labour Appellate Tribunal, the rate for pushing tubs must be calculated only on *pro rata* basis, that the rate, as fixed by the Labour Appellate Tribunal, is for a standard tub of 36 cft that for tubs of smaller size the rate should be proportionately less, and, therefore, the payment for pushing tubs can only be made on *pro rata* basis, i.e., 20:36 of one anna. The contention on behalf of the management receives support from the decision of the Labour Appellate Tribunal referred to above, which shows, that the rate of -|1|- was fixed for a standard tub of 36 cft. Even in the decision of the Tripartite Committee, on which reliance has been placed by the Union, Ext. W/7, paragraph 7, item No. 6(a) is relevant. The following observations occur:—

"It was agreed that the rate for pushing empty tubs would be calculated on *pro rata* basis, i.e., for a standard tub of 36 cft. it would be calculated at the rate of -|1|- (one anna) and for tubs of smaller size proportionately less and for the tubs bigger size, proportionately more."

It was also decided that this method of payment would come into effect from the 1st March, 1958, and that past cases of under payment or over payment would not be re-opened.

In view of the decision by the Tripartite Committee, it is not possible to accept the contention on behalf of the Union, that payment for pushing tubs, whether empty or loaded, should not be less than -1/- even when the tub is of 20 cft, as in the Palana Colliery. It can be paid only on a *pro rata* basis, i.e., taking into account the smaller size of the tub. It is argued for the management, that for a tub of 20 cft, the rate works out to 3 1/3 N.P. in the proportion of 20:36 of -1/- . On a consideration of all circumstances, I fix the rate at 4 N.P. (Naya Paise) per tub of 20 cft. I find on this issue, that, where Miners, are engaged and made to push tubs, they shall be paid at the rate of 4 N.P. per tub of 20 cft. for every 100 feet, or part thereof, in excess of the first 100 feet.

Issue No. 4.

28. The question next is about the date, from which the rate of wages as fixed for pushing tubs and for Coal Cutters should be effective. First taking the question of push tub wages, the Union has claimed a large amount by way of arrears from 26th May 1956, the date on which the Coal Award came into force. The management contend, that, in accordance with the decision of the Tripartite Committee, the new rate should come into force only from 1st March 1958. In Ext. W/37, which is a letter written by the Union, it is alleged, that the total amount, as per the Union records for the period, September 1956 to August 1957 came to Rs. 47,359/98 and that Government sanction for this additional expenditure should be obtained. Taking all circumstances into consideration, it seems to me to be reasonable, that the rate should be effective from 26th May 1956, the date when the Coal Award became enforceable. I find accordingly and further hold that in case over payment has been made in this behalf at a rate over and above 4 N.P. after 26th May 1956, it shall not be re-opened. If any under payment has been made, the workmen will be entitled to recover the difference.

29. The question next is with reference to the date from which the rate of wages and the work load, as fixed for the Coal Cutters, should be effective. I am of opinion, that the same date of 26th May 1956 should be taken into account. Even in the written statement of the management it is alleged in paragraph 5, that bills for arrears of wages, under the decision of the Coal Award, as modified by the Labour Appellate Tribunal decision, were under preparation for the period from 26th May 1956 to 31st December 1957. It is clear, that the management were bound to implement the Award, as directed in paragraph 699 of the Award. I find, that the rate of wages fixed for the Coal Cutters shall be effective from 26th May 1956, that the payment of such rate shall be conditional upon a Coal cutter having raised and loaded and given not less than 44 tubs of 20 cft. per shift of 8 hours. In case over payment has been made to the Coal Cutters after 26th May 1956, it shall not be re-opened. If any under payment has been made, the workmen will be entitled to recover the difference.

Issue No. 5.

30. The question next is with reference to payment of wages on a Sunday. It is alleged by the management, that it is not the general practice in the industry to pay Sunday wages to any colliery workers, piece rated, or time rated. The contention is, that the Coal Award has fixed a uniform pattern of wages for all collieries, that the intention of the Award is, that all previous directions in the matter of wage structure ought to be discontinued, that it is not proper, that Sunday wages should be awarded in addition to the wages as fixed by the Coal Award, and that this is opposed to the Award, the object of which is to bring about standardisation in the wage structure throughout the country. It is also urged, that if Sunday wages ought to be given, then the total amount as prescribed by the Award be divided by 30 instead of 26 in order to give the daily wage. This is strongly opposed on behalf of the Union, and it is contended, that it is against the Standing Orders. There is a provision in the Standing Orders for payment of wages on Sunday. The contention on behalf of the Union is, that, in view of this provision in the Standing orders, the management's plea should not be allowed. The second contention is, that an appeal is pending before the Appellate Authority under the Industrial Employment Standing Orders Act, 1956, over the question of modification of the Standing Orders at present in force in Palana Colliery, and that this question of Sunday wages cannot be considered at present in this proceeding. The third objection raised is, that this question of Sunday wages is not expressly referred to in the terms of reference. It seems to me that the legal objections, taken on behalf of the Union, must be sustained. When there is an attempt to revise the Standing Orders, and when an appeal is pending in this connection before the concerned authority, and when there is also no express term of reference about the question of payment of wages on Sunday, it seems to me, that this is a matter, which cannot be decided in this proceeding.

I find accordingly, and this question of payment of wages on Sunday is left open for future determination.

Issue No. 6.

31. In the result an award is passed as follows:—

- (i) As both parties have stated before me, and proceeded to trial in this dispute on the footing, that there is no difference between them, in The Palana Colliery, in regard to the wage structure, as fixed by the All India Industrial Tribunal (Colliery Disputes) Award, as modified by the Labour Appellate Tribunal except in regard to the matters, which form the subject matter of the issues raised in this proceeding, such wage structure shall be the wage structure governing the workmen of the Palana Colliery.
- (ii) In respect of the disputed matters, the directions are the following:—
 - (a) With reference to Piece Rated Coal Cutters, the management shall pay wages as fixed in paragraph 26 subject to the giving of the out-put as stated therein.
 - (b) So far as wages for pushing tubs are concerned such wages shall be as found in paragraph 27.
 - (c) The payment of wages, as fixed above, both for doing the work of Coal Cutters, and for doing the work of pushing tubs, shall have effect from 26th May 1956, the date on which the Coal Award came into force, subject to this condition, that any over payment in both cases made by the management after 26th May 1956, shall not be re-opened. If however, any under-payment is made, the workmen will be entitled to recover the difference.
 - (d) The question of payment of wages on Sunday is left open as desired by the Union as the said question is pending before the Appellate Authority under the Industrial Employment Standing Orders Act.
- (iii) There will be no order as to costs.

(Twenty Nine pages)

27th July, 1959.

E. KRISHNA MURTI,
Central Govt. Industrial Tribunal, Delhi.

[LRIF-35-5(10)/57.]

New Delhi, the 19th August 1959

S.O. 1880.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the Laxmi Bank Limited, Akola and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT
BOMBAY

REF. (CGIT) No. 12 of 1959

In the matter of the Laxmi Bank Limited, Akola.

AND

their workmen.

PRESENT:

Shri F. Jeejeebhoy, Judge.

APPEARANCES:

For the Bank—Shri B. S. Agarwal, Secretary, Laxmi Bank.

For the Madhya Pradesh Bank Employees' Association—Shri K. K. Mundul, Vice President, All India Bank Employees' Association with Shri C. M. Kapoor, General Secretary, M.P., B.E.A.

For the Laxmi Bank Employees' Association—Shri G. G. Dixit, Secretary, the Laxmi Bank Employees' Association.

AWARD

The Government of India in the Ministry of Labour and Employment by its Order, dated 27th April 1959 has referred to this Tribunal, the following industrial disputes between the Laxmi Bank Limited, Head Office, Akola, and their workmen, for adjudication:—

- "1. Whether the cashiers given power of attorney or similar powers under the Resolution of the Board of Directors by the Laxmi Bank Limited, Akola, are performing duties of more important nature and undertaking heavier responsibilities than those performed or undertaken by the cashiers of this Bank with no such powers?
2. If so, should the cashiers holding powers under the power of attorney or similar powers under a Resolution of the Board of Directors, be paid an allowance for such duties and responsibilities at a rate higher than the special allowance paid to cashiers without such powers? If so, what should be the rate payable to them and from what date?"

The parties have now come to terms. A joint memorandum of settlement has been presented to me stating the terms of settlement. It is signed by the representative of the Bank and by the representatives of the workmen. I accept the settlement and make an award in terms of the settlement. A copy of the memorandum of settlement shall form part of this award.

(Sd.) F. JEEJEEBHOY,

Presiding Officer,

Industrial Tribunal, Bombay.

BOMBAY;

The 30th July, 1959.

BEFORE SHRI F. JEEJEEBHOY, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, BOMBAY

In the matter of the Laxmi Bank Ltd., Akola.

AND

their workmen.

REFERENCE NO. (CGIT) 18 OF 1958

MEMORANDUM OF SETTLEMENT

BOTH PARTIES AGREE THAT:—

1. Cashiers holding powers and power of Attorney or under a resolution of the Board of Directors shall be entitled to receive a special allowance in lieu of what is being paid to them at present at the rates prescribed hereunder with retrospective effect from 1st April, 1954 or from the date of vesting of such power, where such vesting is subsequent to 1st April, 1954:—

(a) In offices where there are four clerks and below.. Rs. 20 per month.

(b) In offices where there are five clerks and above... Rs. 22 per month.

2. Those who have not exercised the above powers continuously for the entire period since 1st April 1954, shall be paid for such period or periods during which they have exercised such powers, provided that breaks on account of leave will not affect the continuity.

3. Those who have ceased to be in the employ of the Bank will be entitled to receive the arrears under clause 1 above, on an application made to the Bank by them or their successors in interest before the end of January 1960.

4. The amount of arrears till 31st July 1959 shall be disbursed in two equal instalments, the first instalment to be paid in September 1959 and the second such instalment being payable in the month of January 1960.

5. The travelling and halting expenses of two representatives of the workmen—Shri C. M. Kapoor and Shri G. G. Dixit—shall be paid at the rate of Second Class Train fares and Rs. 8 (Rupees eight) per diem.

Representing the Laxmi
Bank Ltd., Akola.
B. S. AGARWAL,
Secretary,
The Laxmi Bank Ltd.,
30-7-1959.

Representing the workmen.

- (1) K. K. MUNDUL,
Vice President,
A.I.B.E.A.
- (2) C. M. KAPOOR,
General Secretary,
M.P.B.E.A.
- (3) G. G. DIXIT,
Secretary,
The Laxmi Bank Employees'
Association.

True Copy.

[No. LR/II/10(31)/59.]

S.O. 1881.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the Bank of Mysore Limited, Bombay and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BOMBAY

REFERENCE NO. (CGIT) 18 OF 1958

RE-NUMBERED AS REF. NO. 17 OF 1959

In the matter of the Bank of Mysore Limited, Bombay

AND

Their Workmen.

PRESENT:

Shri F. Jeejeebhoy, Judge.

APPEARANCES:

For the Bank—Shri Tanubhai D. Desai, Solicitor, with Mr. S. Narayanaiah, Advocate, and Shri M. A. Aleem, Manager, Bank of Mysore, Bombay Branch.

For the Workmen—Shri M. Rajagopal, General Secretary, Bank of Mysore Employees' Union, Bombay, with Shri K. G. Narayanaswamy. Workmen concerned.

AWARD

The Central Government in the Ministry of Labour and Employment by its Order of 7th October 1958 referred an industrial dispute between the Bank of Mysore Limited, Bombay Branch, and their workmen for adjudication by the Industrial Tribunal, Nagpur. The Reference was subsequently transferred to this Tribunal by an Order of 5th May 1959. The dispute in question appearing in the schedule is as follows:—

"Whether the transfer of Shri K. G. Narayanaswamy, a workman of the Bank, from Bombay to Bangalore is justified and if not, to what relief he is entitled."

2. The facts are shortly these: Shri K. G. Narayanaswamy, hereinafter referred to as the employee joined the Bank of Mysore in Bombay about 10 years ago as a clerk, and he continued as a clerk with his emoluments rising with his years of service until he was transferred to Bangalore in 1958. This Reference is concerned with the validity of that transfer.

3. The Bank of Mysore had applied to the Reserve Bank for permission to open six new branches in pursuance of a policy to expand the banking system. The Reserve Bank issued a formal order on or about 23rd May 1958 giving permission to the Bank of Mysore to open six new branches at Mercara, Hyderabad, Gulbarga, Nanjangud Hospet, Bellary and Challakere. The Bank in the meantime had been working out a scheme for the manning of new branches which involved some transfers and training at the head office of the Bank at Bangalore. The Bank maintains that among the persons selected by the head office at Bangalore as a result of the scheme of expansion was the employee in this Reference, and the head office had worked out a programme of training for him as will appear from exhibit K which has been signed by the General Manager of the Bank. That scheme of training was intended to give him an intensive period of training at the Head Office for 32 weeks; details of such training are given in exhibit K, and it is common ground that the employee after his transfer to Bangalore has in fact undergone training as to three of the items of the programme.

4. Transfers by the Bank are not uncommon because of exigencies of service, as evidenced by exhibit J, which is a list of some 68 employees transferred by the Bank during 1958. Indeed three of the senior clerks were sent to the Bombay office from the head office at Bangalore because they were experienced in particular branches of bank work, and one of them was conversant with securities and has since been doing that work in Bombay. It is not suggested by labour that these 68 transfers in 1958, or any of them, were motivated by victimisation.

5. On 28th May 1958 the company informed the employee as well as the union of the intention of the Head Office to transfer the employee to the Head Office at Bangalore. This notice was also posted on the notice board in pursuance of a direction of the Sastry Award (paragraph 535) that "except in very special cases, whenever the transfer of any of the above mentioned office bearers is contemplated, at least five clear working days' notice should be put up on the notice board of the bank of such contemplated action; any representations, written or oral, made by the union shall be considered by the bank; if any order of transfer is ultimately made, a record shall be made by the bank of such representations and the bank's reason for regarding them as inadequate; and the decision shall be communicated to the union as well as to the employee concerned."

6. This direction of the Sastry Tribunal applied to this employee because he had been one of the Joint Secretaries of the Union from its inception in 1956. There is no dispute that this notice was given and was duly posted on the Notice Board. There is however a dispute as whether any representation against the transfer was made by the employee or the union within the five clear working days of the notice, for the direction in the award contemplated that if no objection was received within those five days the Bank would be at liberty to proceed with the transfer, as in fact the Bank did by its letter of 4th June 1958 informing the employee that he was transferred to the head office at Bangalore and that he was to report for duty as early as possible.

7. The union alleges that a letter from the union was duly delivered to the Bank on the 2nd June 1958 objecting to the transfer on the ground that it was a case of victimisation that the transfer was unwarranted and could be avoided, that the transfer would cause considerable inconvenience to the employee and the transfer was not warranted by the exigencies of the business of the Bank; it was therefore contended that the action of the Bank was *mala fide*. At the hearing it appears from the evidence of the employee that his main objection to the transfer was the fact that he had been living with his brother in Bombay and that a transfer to Bangalore would subject him to additional expenditure.

8. The question whether the letter of the union of 2nd June 1958 was delivered to the Bank, and within the five days, has been carefully considered, and evidence has been led on the subject. I am satisfied that no such letter was delivered to the Bank on 2nd June. I refrain from discussing the evidence because in the view that I take of the matter any such discussion would involve more than one clerk of the Bank and would not help industrial peace. I am however bound to investigate under the Reference whether there was any lack of justification for the action which the Bank took.

9. On the charge of victimisation the union contends that the employee had been selected because he was an active worker of the union and had thereby antagonised the Bank. The union was formed in 1956 and there were two Joint Secretaries, one by name Krishnamurthy and the other the employee himself. Krishnamurthy was transferred to Bellary and was ultimately dismissed on a charge for which one of the punishments was dismissal; he took the matter in adjudication,

and ultimately the matter was settled at the time of hearing mainly on the basis of converting the dismissal into a discharge. I can draw no adverse inference from what happened in Krishnamurthy's case. As regards the employee before me, it is said that while he was Joint Secretary he compelled the Bank to pay overtime which had not been previously paid. It is not alleged, much less attempted to be proved, that the Manager or the management bore a grudge against him; in fact the present Manager came to the Bank in 1956 and always paid for overtime; there was some dispute about arrears, and one of the reasons for non-payment was the fact that overtime had been claimed even for days on which workmen had been on leave. The only achievement of the union after it was formed, and in fact it is presumed the only legitimate complaint it had, related to the payment of arrears of overtime which in one quarter amounted to Rs. 225. It must be appreciated that overtime is payable under the award of the Sastry Tribunal and not only the Banks but all their employees are full conversant with that fact. No doubt non-implementation is a valid grievance but labour in the banking business today is well organised and it quite capable of looking after itself. In fact the President of the Union is a member of the Bombay Legislative Assembly and the General Secretary who has conducted this case is also an outsider, and both are quite competent to look after the rights of the workers quite apart from the Joint Secretary. I am unable to accept the view of the union that the employee has been victimised because he as Secretary of the Union sponsored the matter of payment of overtime. The Banks know that they have to pay overtime, and that a claim for overtime payment cannot be resisted. In actual fact the dispute as to overtime was confined to a question of hours of work.

10. It is next said that someone else could be selected instead of this employee. There are however only two persons who could be selected. One is a Gujarati whose appointment in Mysore would mean language difficulties. The other one has recently lost his father and has a large family to support and the Bank does not feel that he should be transferred. It has been urged by the union that one of the three persons who had come from the head office should have been sent back, but as I have said before, they are senior among clerks, and they have been sent here because they are experienced men and have had special training in the Bank's work.

11. It is my function in cases of this kind to satisfy myself that the management has not acted *mala fide* and that there has not been a violation of the principles of natural justice in or about the transfer. It is the function of the Bank to decide whether the exigencies of service demand the transfer of an employee from one branch to another branch or to the head office, and that right cannot be fettered without detriment to the service of the Bank. No doubt the Bank should minimise the hardships as far as possible but I am unable to find in or about the transfer of this employee any grounds for believing that the Bank was moved by ulterior motives to transfer him from this place to the head office, and thereafter to a branch, for that is the scheme of the Bank. It may be that when considering questions of transfers the Bank has to choose between two or three persons of experience and suitability, but it is not the function of this Tribunal to substitute its judgment for the judgment of the Bank in selecting the employee who should in fact be transferred. The Union invites me to hold that the whole story of the Bank as to training and manning of new branches is a fabrication in order to get rid of an ardent union worker from Bombay; that Bombay is the only office of the Bank where a union has taken root, and therefore an attempt has been made to kill the Union. The Bank does not admit this and denies the allegation made. It is however well to remember that this union has just about 17 members including subordinate staff out of the total staff of 28 in the Bank. The allegation that an attempt was being made to kill the Union has little force in the light of existing facts and circumstances.

12. I am unable to come to the conclusion that there was anything improper in or about the transfer of this employee. The selection of the employee by the Bank was justified on the basis of the employee's experience, seniority and general suitability. In effecting such transfer the requirements of the award were duly observed as is manifest from the exhibits. It is true that the employee will no longer be able to live with his brother as he was doing in Bombay. But that cannot stand in the way of the Bank's exercising its legitimate powers of transfer for the benefit of its business. And lastly it is high time that the employee appreciated that the training which he is receiving at Bangalore, and the work which he will be allotted in the future as a result of that training, is bound to help in his onward progress.

13. I therefore answer the Reference as follows:—

There is nothing improper or wrong in the transfer of Shri K. G. Narayana-swamy, a clerk of the Bank, from Bombay to Bangalore and he is not entitled to any relief under this Reference.

I make this award accordingly.

(Sd.) F. JEEJEEBHoy,
Presiding Officer,
Industrial Tribunal, Bombay.

BOMBAY;

The 6th August, 1959.

[No. LR II/10(103)/58.]

New Delhi, the 24th August 1959

S.O. 1882.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay in the industrial dispute between the employers in relation to the Wadi Stone Marketing Company (Private) Limited, and three others and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BOMBAY

REFERENCE No. (CGIT) 15 OF 1959

In the matter of

- (1) The Wadi Stone Marketing Co. (P) Ltd.,
- (2) The Shahabad & Martur Stone Supplying Co. (P) Ltd.,
- (3) The Kurkunta & Seram Stones (P) Ltd.,
- (4) The Chittapur Stone Quarrying Co. (P) Ltd.,

AND

Their Workmen.

PRESENT:

Shri F. Jeejeebhoy, Judge.

APPEARANCES:

For (1) The Wadi Stone Marketing Co. (P) Ltd.,
(2) The Shahabad & Martur Stone Supplying Co. (P) Ltd., and (3) The Chittapur Stone Quarrying Co. (P) Ltd.

Shri G. Rustomji
Sahabad and Shri
Gustasp Rustomji
Irani.

For the Kurkunta & Seram Stones (P) Ltd.—Shri Mohammed Dawood Ali-khan.

For the Workmen—Nil.

AWARD

By its Order dated 30th April 1959 the Government of India in the Ministry of Labour and Employment has referred to this Tribunal for adjudication the disputes between the above companies and their workmen concerning the matters specified in the schedule to the said Order. A notice was issued on 8th May 1959 to the Union named in the Reference calling upon the Union and the workmen to file their statement of claim, and the employers were directed to affix copies of the Order at appropriate places in their premises and places of work of the workmen concerned, for their information; and the employers have intimated that they have carried out the said order of the Tribunal. Neither the Union nor any workman has filed any statement of claim, and a petition has been received from the companies concerned that in fact no disputes existed or exist and they suggest that this Reference had been made under a misapprehension of facts. On

22nd July 1959 this Tribunal issued a further notice to the employers and the Union pointing out that the workmen had not complied with the terms of the notice of 8th May 1959 and had not filed any statement of claim, and fixing the Reference for Orders before the Tribunal today at 11 A.M. and a warning was given that as no statement of claim had been filed the Reference was liable to be closed for want of prosecution.

The employers have appeared this morning. Neither the Union nor any representative of the workmen has appeared.

I have no alternative but to close the Reference for non-prosecution.

As there is no statement of claim, and labour is taking no interest in these proceedings, the Reference is closed, and an Award is made accordingly.

Dated 3rd August 1959.

F. JEEJEEBHAY, Judge,

Central Govt., Industrial Tribunal, Bombay.

[No. LR.II/63(11)/56.]

ORDERS

New Delhi, the 19th August 1959

S.O. 1883.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bank of Bihar Ltd., Patna and their employees in respect of the matter specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the members of the supervisory staff including the Accountants and the Branch Managers of the Bank of Bihar are "workmen" as defined in section 2(s) of the Industrial Disputes Act, 1947, as amended by the Industrial Disputes Act, 1947, as amended by the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956, and if so, whether they should have all, or any of, the benefits admissible to workmen under the Award of the All India Industrial Tribunal (Bank Disputes) constituted by the Government of India in the Ministry of Labour No. S.R.O. 35, dated 5th January 1952 as modified by the Industrial Disputes (Banking Companies Decision) Act, 1955.

[No. LR.II.10(74)/57.]

New Delhi, the 20th August, 1959

S.O. 1884.—Whereas the Saurashtra Bank Employees' Union, Bhavnagar has demanded payment of special allowance of Rs. 15 (Rupees fifteen only) to Shri M. H. Dagli of the Devkaran Nanjee Banking Company Limited, Surendranagar under paragraph 164(b) (7) of the Award of the All India Industrial Tribunal (Bank Disputes) Bombay constituted by the notification by the Government of India in the Ministry of Labour No. S.R.O. 35, dated the 5th January, 1952, as modified by the decision of the Labour Appellate Tribunal in the manner referred to in section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955);

And whereas the Central Government is of opinion that a difficulty or doubt has arisen as to the interpretation of paragraph 164 (b) (7) of the said Award in respect of the matter specified in the schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby refers the said matter for decision to the Industrial Tribunal, Bombay constituted as an industrial Tribunal in this behalf by the notification of the Government of India in the Ministry of Labour and Employment No. LR.II-10(130)/58-I, dated the 5th June, 1959.

SCHEDULE

Whether the expression 'pay office' appearing in para 164 (b) (7) of the Award of the All India Industrial Tribunal (Bank Disputes) will include the Surendra Nagar Branch of Devkaran Nanjee Banking Company Limited, Bombay, and whether Shri M. H. Dagli is entitled to a special allowance of Rs. 15 (Rupees fifteen only) provided for in that para.

[No. LRII. 10(22)/58.]

PYARE LAL GUPTA, Under Secy.

New Delhi, the 19th August 1959

S.O. 1885.—Whereas immediately before the Employees' Provident Funds Act, 1952 (19 of 1952), became applicable with effect from the 1st November 1952 to the factory known as the Edward Textiles Ltd., Ferguson Road, Bombay-13, there was in existence a provident fund common to the employees employed in the factory, to which the said Act applies and the employees in its Head Office situated at Indu House, Dougall Road, Estale, Bombay-1.

Now, therefore, in exercise of the powers conferred by section 3 of the said Act, the Central Government hereby directs that the provisions of that Act shall also apply to the aforesaid Head Office.

[No. PF.II.7(32)/59.]

New Delhi, the 21st August 1959

S.O. 1886.—MDLB/(2)/AM.(8)/57.—In pursuance of clause 4 of the Madras Dock Workers (Regulation of Employment) Scheme, 1956, the Central Government hereby appoints Shri K. V. Parthasarathy to be a member of the Madras Dock Labour Board in place of Shri K. Srinivasan who has resigned, and makes the following further amendment in the notification of the Government of India in the Ministry of Labour No. SRO. 2377/MDLB(2)/56, dated the 23rd October, 1956, namely:—

In the said notification, under the heading "Representatives of the Central Government", in item (4), for the entry "Shri K. Srinivasan", the entry "Shri K. V. Parthasarathy" shall be substituted.

[No. Fac.76(23).]

P. D. GAIHA, Under Secy

New Delhi, the 20th August 1959

S.O. 1887.—In exercise of the powers conferred by section 83 of the Mines Act, 1952 (35 of 1952), the Central Government hereby exempts the mines specified in the first column of the Schedule hereto annexed from the operation of clause (b) of sub-regulation (2) of regulation 74 of the Coal Mines Regulations, 1957 subject to the conditions specified in the third column of the said Schedule.

SCHEDULE

Mines exempted 1	Names and addresses of owners 2	Conditions attached to exemption 3
1. Industry and West End Collieries	Kalyanji Mavji & Company, P.O. Dhanisar (Dhanbad)	The exemption shall be for one year from the date of this notification and subject to the condition that the efficacy of brakes referred to in sub-regulation (2) of regulation 74 of the Coal Mines Regulations, 1957 shall be examined in every shift by a competent person appointed in writing by the manager and once a week personally by the manager himself.
2. Tisra Colliery	Amarsingh Gowamal & Sons., P.O. Jharia (Dhanbad).	
3. Jeenagora (East Bararee) Colliery	Jeenagora (East Bararee) Colliery Co. Ltd., c/o Industry Colliery, P. O. Dhanisar (Dhanbad).	
4. Kuilama Pandebra Colliery—Pit No. 1.	Khas Basra Coal Concern Ltd., c/o Bahihari Colliery Co. Ltd., P. O. Kusunda, (Dhanbad).	

[No. MI-6(7)/59.]

New Delhi, the 24th August 1959

S.O. 1888.—In exercise of the powers conferred by sub-section (1) of section 5 of the Mines Act, 1952 (35 of 1952), the Central Government hereby appoints Shri Shyam Chandra, Welfare Inspector, Coal Mines Labour Welfare Fund to be Inspector of Mines subordinate to the Chief Inspector.

[No. MII-6(83)59.]

A. P. VEERA RAGHAVAN, Under Secy.

New Delhi, the 24th August 1959

S.O. 1889.—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (14 of 1947), read with the proviso to sub-section (2) of section 1 of the said Act, the Central Government hereby appoints the Labour Inspector (Central) at Ambala as Conciliation Officer for a further period of six months from the 26th August, 1959, for all industrial disputes—

(a) in the State of Punjab and the Union Territory of Himachal Pradesh concerning workmen employed in—

- (i) any industry carried on by or under the authority of the Central Government other than railways;
- (ii) any controlled industry specified by the Central Government under sub-clause (i) of clause (a) of section 2 of the said Act;
- (iii) any mine;
- (iv) any oil field;
- (v) any banking, or insurance company, having branches or other establishments in more than one State;

(b) in the State of Jammu and Kashmir concerning workmen employed under the Government of India.

[No. LRI -1(115)/59.]

New Delhi, the 29th August 1959

S.O. 1890.—In exercise of the powers conferred by sub-section (3) of section 22 of the Industrial Disputes Act, 1947 (14 of 1947), read with the proviso to sub-section (2) of section 1 of the said Act, the Central Government hereby specifies, for a further period of six months from the 26th August, 1959, the Labour Inspector (Central) at Ambala, as the authority to whom the employer shall send intimation of any lock-out or strike referred to in sub-section (3) of section 22 aforesaid, in the States of Punjab and Jammu and Kashmir and in the Union Territory of Himachal Pradesh.

[No. LRI-1(115)/59.]

A. L. HANDA, Under Secy.

MINISTRY OF INFORMATION AND BROADCASTING

ORDER

New Delhi, the 20th August 1959

S.O. 1891.—The Central Government hereby:

(a) directs, in pursuance of the provisions of the Order of the Government of India in the Ministry of Information and Broadcasting No. S. R. O. 3805, dated the 26th December, 1955 and in modification of the Order of the Government of India in the Ministry of Information and Broadcasting No. S. O. 1252 dated the 20th May, 1959 that the Advisory Panel of the Central Board of Film Censors at Bombay would consist of 31 members with effect from 15th July, 1959, and shall consist of 35 members with immediate effect;

(b) notifies for general information that Shrimati Sushila Joshi and Smt. Madhuri D. Desai members of the Advisory Panel of the Central Board of Film Censors at Bombay retired under sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules 1958 with effect from 16th July, 1959; and

(c) appoints, the following persons as members of the Advisory Panel of the said Board at Bombay with immediate effect in exercise of the powers conferred by sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958:

1. Smt. M. Lad.
2. Smt. S. Panandikar.
3. Smt. Uma Nehru.
4. Dr. Yudhvir Singh.

I.

[No. F. 11/2/59 F.C.]

V. P. PANDIT, Under Secy.

